



# Journal of the Senate

State of Indiana

115th General Assembly

Second Regular Session

Twentieth Meeting Day

Thursday Afternoon

February 21, 2008

The Senate convened at 1:46 p.m., with the President of the Senate, Rebecca S. Skillman, in the Chair.

Prayer was offered by Senator Marvin D. Riegsecker.

The Pledge of Allegiance to the Flag was led by Senator Riegsecker.

The Chair ordered the roll of the Senate to be called. Those present were:

|  |            |
|--|------------|
| Alting                                     | Long       |
| Arnold                                     | Lubbers    |
| Becker <input checked="" type="checkbox"/> | Meeks      |
| Boots                                      | Merritt    |
| Bray                                       | Miller     |
| Breaux                                     | Mishler    |
| Brodén                                     | Mrvan      |
| Charbonneau                                | Nugent     |
| Deig                                       | Paul       |
| Delph                                      | Riegsecker |
| Dillon                                     | Rogers     |
| Drozda                                     | Simpson    |
| Errington                                  | Sipes      |
| Ford <input checked="" type="checkbox"/>   | Skinner    |
| Gard                                       | Smith      |
| Hershman                                   | Steele     |
| Howard <input checked="" type="checkbox"/> | Tallian    |
| Hume                                       | Walker     |
| Jackman                                    | Waltz      |
| Kenley                                     | Waterman   |
| Kruse                                      | Weatherwax |
| Lanane <input checked="" type="checkbox"/> | Wyss       |
| Landske                                    | Young, M.  |
| Lawson                                     | Young, R.  |
| Lewis                                      | Zakas      |

Roll Call 231: present 46; excused 4. [Note: A ☒ indicates those who were excused.] The Chair announced a quorum present. Pursuant to Senate Rule 5(d), no motion having been heard, the Journal of the previous day was considered read.

## REPORTS FROM COMMITTEES

### COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred Engrossed House Bill 1246, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, line 8, after "2." insert "(a)".

Page 2, line 3, delete "identify up to thirty (30)" and insert

"expand the number of students enrolled".

Page 2, delete lines 4 through 5.

Page 2, line 6, delete "student who qualifies to participate".

Page 2, line 6, after "up" insert "for".

Page 2, run in lines 3 through 6.

Page 2, line 13, delete "of education".

Page 2, between lines 14 and 15, begin a new paragraph and insert:

**"(b) The report required under subsection (a)(5) must include the following information:**

**(1) An assessment of the academic standards required by the programs.**

**(2) Student performance under the programs.**

**(3) College attainment for students enrolled in the programs.**

**(4) Program costs.**

**(5) Student demand for the programs.**

**(6) Demographic information for students in the programs.**

**(7) The cost of, access to, and ease of transfer of courses in the programs."**

Page 2, line 20, delete "superintendent of public" and insert "state superintendent."

Page 2, delete line 21.

Page 2, line 27, delete "School Boards." and insert "Public School Superintendents."

Page 2, between lines 29 and 30, begin a new line block indented and insert:

**"(7) An individual appointed by the Indiana Non-Public Education Association.**

**(8) An individual appointed by the Independent Colleges of Indiana."**

Page 2, line 30, delete "(7)" and insert "(9)".

Page 2, line 40, delete "staff".

Page 2, line 41, delete "and budgetary".

Page 4, line 22, after "plan" insert "that was developed in grade 9 under section 2 of this chapter".

Page 4, line 22, after "if" strike "a" and insert "the".

Page 4, delete lines 29 through 42.

Delete page 5.

Page 6, delete lines 1 through 32.

Page 6, line 35, delete "K-12 virtual learning." and insert "education matters."

Page 6, line 36, delete "K-12" and insert "education matters."

Page 6, line 37, delete "virtual learning."

Page 7, line 1, delete "states and" and insert "states, including".

Page 7, line 4, after "learning" insert "opportunities."

Page 7, delete lines 5 through 6.

Page 7, line 7, delete "Tuition reimbursement for students who

enroll in courses" and insert **"Funding for students enrolled in full-time or part-time virtual learning programs"**.

Page 7, line 8, delete "that are provided".

Renumber all SECTIONS consecutively.

(Reference is to HB 1246 as reprinted January 30, 2008.)

and when so amended that said bill do pass.

Committee Vote: Yeas 6, Nays 1.

LUBBERS, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Engrossed House Bill 1224, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Replace the effective dates in SECTIONS 1 through 2 with "[EFFECTIVE APRIL 1, 2008]".

Page 2, line 12, delete "(a) The following rules are void:".

Page 2, delete lines 13 through 22.

Page 2, line 23, delete "(b) The" and insert **"After March 31, 2008, the"**.

Page 2, run in lines 12 through 23.

Page 3, line 30, delete "by resolution".

Page 5, delete lines 39 through 42, begin a new paragraph and insert:

"SECTION 7. IC 4-33-4-24.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 24.5. The executive director shall establish a model power of attorney setting forth the terms and conditions under which a trustee may exercise the power to conduct gambling operations on a riverboat under IC 4-33-21. The executive director may provide a copy of the model power of attorney to any interested party.**

SECTION 8. IC 4-33-4-25 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 25. (a) The commission may select a person who is qualified to perform any duty described in this section or IC 4-33-21 as the presumptive trustee for any particular riverboat if the person required to submit for the commission's approval a power of attorney under IC 4-33-6-2(c), IC 4-33-6-22, IC 4-33-6.5-2(c), or IC 4-33-6.5-16 for that riverboat fails to submit the required power of attorney before the fifth day preceding a commission meeting scheduled for commission action on:**

- (1) the person's application for an owner's license or an operating agent's contract; or
- (2) the renewal of the person's owner's license or operating agent contract.

**(b) The commission may impose a civil penalty upon a person who:**

- (1) fails to submit a power of attorney before the deadline specified in subsection (a);
- (2) fails to take any corrective action required by the commission with respect to a power of attorney submitted under IC 4-33-6-2(c), IC 4-33-6-22,

IC 4-33-6.5-2(c), or IC 4-33-6.5-16; or

(3) violates any provision of this article concerning the submission of a power of attorney identifying the person who would serve as a trustee for the person.

**(c) This subsection applies only to a riverboat licensed under IC 4-33-6. If:**

(1) a riverboat and its related properties are for sale; and

(2) the licensed owner or an applicant for an owner's license fails to comply with any provision of this article concerning the submission of a power of attorney identifying the person who would serve as a trustee for the owner or applicant;

**the commission may appoint a trustee to perform the duties described in subsection (e).**

**(d) This subsection applies only to a riverboat subject to an operating agent contract entered into under IC 4-33-6.5. If:**

(1) a riverboat and its related properties are for sale; and

(2) the operating agent or an applicant for the operating agent contract fails to comply with any provision of this article concerning the submission of a power of attorney identifying the person who would serve as a trustee for the operating agent or applicant;

**the commission may appoint a trustee to perform the duties described in subsection (e).**

**(e) A trustee appointed by the commission under subsection (c) or (d) shall conduct:**

(1) riverboat gambling operations under IC 4-33-21; and

(2) the business operations of any property or amenity related to the riverboat gambling operation;

**until the commission approves of the transfer of the riverboat and its related properties to a new licensed owner or operating agent.**

**(f) If:**

(1) any circumstance described in IC 4-33-21-3(a) occurs; and

(2) a licensed owner, an applicant for an owner's license, an operating agent, or an applicant for the operating agent contract fails to comply with any provision of this article concerning the submission of a power of attorney identifying the person who would serve as a trustee for that person;

**the commission may appoint a trustee to perform any duty described in subsection (e) or IC 4-33-21.**

**(g) A trustee appointed by the commission under subsection (c), (d), or (f) shall exercise the trustee's powers in accordance with:**

(1) the model power of attorney established by the executive director under section 24.5 of this chapter; and

(2) IC 4-33-21.

**(h) A trustee appointed under this section is subject to the direct supervision of the commission."**

Page 6, delete lines 1 through 11, begin a new paragraph and insert:

"SECTION 8. IC 4-33-5-1.5, AS ADDED BY P.L.125-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. (a) The following information submitted, collected, or gathered as part of an application to the commission for a license is confidential for purposes of IC 5-14-3-4:

- (1) Any information concerning a minor child of an applicant.
- (2) The Social Security number of an applicant or the spouse of an applicant.
- (3) The home telephone number of an applicant or the spouse of an applicant.
- (4) An applicant's birth certificate.
- (5) An applicant's driver's license number.
- (6) The name or address of a previous spouse of the applicant.
- (7) The date of birth of the spouse of an applicant.
- (8) The place of birth of the spouse of an applicant.
- (9) The personal financial records of an applicant or the spouse or minor child of an applicant.

**(b) In addition to information that is confidential under subsection (a), all information maintained by the commission concerning an individual who holds an occupational license under this article:**

- (1) is confidential for purposes of IC 5-14-3; and**
- (2) may be released by the commission only for law enforcement purposes or to a state or local public agency."**

Page 6, line 25, delete "designating" and insert "identifying".

Page 6, line 25, delete "may" and insert ", if approved by the commission, would".

Page 6, line 26, delete "document" and insert "power of attorney".

Page 7, line 13, delete "designated" and insert "identified".

Page 7, line 19, delete "designating" and insert "identifying".

Page 7, line 19, delete "may" and insert ", if approved by the commission, would".

Page 7, line 20, delete "document" and insert "power of attorney".

Page 8, line 2, delete "designating" and insert "identifying".

Page 8, line 2, delete "may" and insert ", if approved by the commission, would".

Page 8, line 3, delete "document" and insert "power of attorney".

Page 8, line 27, delete "designating" and insert "identifying".

Page 8, line 27, delete "may" and insert ", if approved by the commission, would".

Page 8, line 28, delete "document" and insert "power of attorney".

Page 8, between lines 37 and 38, begin a new paragraph and insert:

**"(c) The proposed power of attorney required by this section must be submitted before August 1, 2008."**

Page 9, delete lines 7 through 13, begin a new paragraph and insert:

**"Sec. 1. This chapter applies only to a trustee acting under the authority of the following:**

**(1) Either of the following:**

**(A) A written power of attorney approved by the commission under IC 4-33-6-2(c), IC 4-33-6-22, IC 4-33-6.5-2(c), or IC 4-33-6.5-16.**

**(B) An appointment by the commission under IC 4-33-4-25.**

**(2) A resolution made by the commission authorizing the trustee to commence gambling operations under this chapter."**

Page 9, line 29, after "unable" insert "or unwilling".

Page 9, line 29, after "ownership" insert "or control".

Page 9, line 34, after "unable" insert "or unwilling".

Page 9, line 35, after "ownership" insert "or control".

Page 10, line 5, after "4." insert "(a)".

Page 10, between lines 11 and 12, begin a new paragraph and insert:

**"(b) A trustee appointed under this chapter is subject to the direct supervision of the commission."**

Page 11, between lines 11 and 12, begin a new paragraph and insert:

**"Sec. 9. A licensed owner or an operating agent shall purchase liability insurance in an amount determined by the commission to protect the trustee appointed to conduct gambling operations on behalf of the licensed owner or operating agent from liability for any act or omission by the trustee occurring within the scope of the trustee's duties. The insurance coverage required by this section must apply to the entire period of the trusteeship.**

SECTION 16. IC 4-35-10-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 3. (a) The following information submitted, collected, or gathered as part of an application to the commission for a license is confidential for purposes of IC 5-14-3-4:**

**(1) Any information concerning a minor child of an applicant.**

**(2) The Social Security number of an applicant or the spouse of an applicant.**

**(3) The home telephone number of an applicant or the spouse of an applicant.**

**(4) An applicant's birth certificate.**

**(5) An applicant's driver's license number.**

**(6) The name or address of a previous spouse of the applicant.**

**(7) The date of birth of the spouse of an applicant.**

**(8) The place of birth of the spouse of an applicant.**

**(9) The personal financial records of an applicant or the spouse or minor child of an applicant.**

**(b) In addition to information that is confidential under subsection (a), all information maintained by the commission concerning an individual who holds an occupational license under this article:**

**(1) is confidential for purposes of IC 5-14-3; and**

**(2) may be released by the commission only for law enforcement purposes or to a state or local public agency."**

Page 11, delete lines 18 through 19.

Page 11, line 20, delete "(c)" and insert "(b)".

(Reference is to HB 1224 as reprinted January 29, 2008.)  
and when so amended that said bill do pass.  
Committee Vote: Yeas 11, Nays 0.

MEEKS, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Engrossed House Bill 1153, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 5.

Page 6, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 2. IC 4-32.2-1-2, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. **Except as provided in IC 4-32.2-4-13(e)**, the purpose of this article is to permit a licensed qualified organization:

(1) to conduct allowable events; and

(2) to sell pull tabs, punchboards, and tip boards;

as a fundraising activity for lawful purposes of the organization."

Page 8, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 6. IC 4-32.2-4-13, AS BY P.L.227-2007, SECTION 25, IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) A bingo license or special bingo license may also authorize a qualified organization to conduct raffle events and door prize drawings and sell pull tabs, punchboards, and tip boards at the bingo event.

(b) A charity game night license may also authorize a qualified organization to:

(1) conduct raffle events and door prize drawings; and

(2) sell pull tabs, punchboards, and tip boards;

at the charity game night.

(c) A raffle license or an annual raffle license may also authorize a qualified organization to conduct door prize drawings and sell pull tabs, punchboards, and tip boards at the raffle event.

(d) A door prize license or an annual door prize license may also authorize a qualified organization to conduct a raffle event and to sell pull tabs, punchboards, and tip boards at the door prize event.

(e) **A PPT license may also authorize a qualified organization to conduct at any time on the premises described in section 16.5(b) of this chapter a winner take all drawing in which the qualified organization retains no portion of the amounts wagered."**

Page 8, between lines 41 and 42, begin a new paragraph and insert:

"SECTION 10. IC 4-35-7-13, AS ADDED BY P.L.233-2007, SECTION 21, IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) The definitions in IC 3-5-2 apply to this section to the extent they do not conflict with the definitions in this article.

(b) As used in this section, "candidate" refers to any of the following:

(1) A candidate for a state office.

(2) A candidate for a legislative office.

(3) A candidate for a local office.

(c) As used in this section, "committee" refers to any of the following:

(1) A candidate's committee.

(2) A regular party committee.

(3) A committee organized by a legislative caucus of the house of the general assembly.

(4) A committee organized by a legislative caucus of the senate of the general assembly.

(d) Money distributed **to a horsemen's association** under section 12 of this chapter may not be used for any of the following purposes:

(1) To make a contribution to a candidate or a committee.

(2) For lobbying (as defined in IC 2-7-1-9)."

Page 9, line 27, delete "Indiana gaming commission." and insert **"alcohol and tobacco commission created by IC 7.1-2-1-1."**

Page 9, delete lines 35 through 36.

Page 9, line 37, delete "8." and insert "7."

Page 10, line 5, delete "9." and insert "8."

Page 10, delete lines 8 through 9.

Page 10, line 10, delete "11." and insert "9."

Page 10, line 13, delete "12." and insert "10."

Page 10, line 15, delete "13." and insert "11."

Page 10, line 17, delete "14." and insert "12."

Page 10, line 20, delete "15." and insert "13."

Page 10, line 23, delete "16." and insert "14."

Page 10, line 24, delete "17." and insert "15."

Page 10, line 26, delete "18." and insert "16."

Page 10, line 28, delete "19." and insert "17."

Page 10, line 28, delete "that is licensed:" and insert **"that:"**.

Page 10, line 29, after "(1)" insert **"is licensed"**.

Page 10, line 30, delete "person's licensed premises;" and insert **"licensed premises of the person's tavern;"**.

Page 10, line 31, after "(2)" insert **"holds an endorsement"**.

Page 10, line 31, delete "under a retailer's" and insert **"that was"**.

Page 10, line 32, delete "license".

Page 10, line 32, after "issued" insert **"by the commission"**.

Page 10, between lines 32 and 33, begin a new paragraph and insert:

**"Sec. 18. "Tavern" means a permit premises:**

(1) **that meets the definition of restaurant set forth in IC 7.1-3-20-9 but is used primarily for the serving of alcoholic beverages by the drink to the general public; and**

(2) **where food service is secondary to the primary use described in subdivision (1):**

(A) **in the amount of sales; and**

(B) **in the size of the service area where minors are not permitted."**

Page 10, line 33, delete "20." and insert "19."

Page 10, line 35, delete "21." and insert "20."

Page 10, line 36, after "the" insert **"Indiana gaming"**.

Page 10, line 37, delete "both IC 4-32.2 and this article." and insert **"IC 4-32.2."**

Page 10, line 38, delete "22." and insert **"21."**

Page 10, line 39, delete "licensed" and insert **"tavern."**

Page 10, delete line 40.

Page 11, delete lines 3 through 9.

Page 11, line 29, after "issue" insert **"an endorsement or"**.

Page 11, line 35, after "1." insert **"(a)"**.

Page 11, line 35, delete "license" and insert **"endorsement"**.

Page 11, line 37, delete "license" and insert **"endorsement"**.

Page 11, line 38, delete "licensed premises" and insert **"tavern"**.

Page 11, line 40, delete "license" and insert **"endorsement"**.

Page 11, line 40, delete "licensed premises on" and insert **"tavern at"**.

Page 11, between lines 41 and 42, begin a new paragraph and insert:

**"(b) The commission shall affix an endorsement issued under this chapter to the retailer's alcoholic beverage permit that authorizes the retailer to sell alcoholic beverages at the tavern specified in the retailer's application under section 3(b)(2) of this chapter. An endorsement issued under this chapter is valid for one (1) year."**

Page 11, line 42, delete "license," and insert **"endorsement,"**.

Page 12, line 1, delete "an establishment" and insert **"a tavern"**.

Page 12, line 2, delete "person's licensed" and insert **"premises of the tavern."**

Page 12, delete line 3.

Page 12, line 4, delete "Notwithstanding subsection (a), the" and insert **"The"**.

Page 12, line 5, delete "license" and insert **"endorsement"**.

Page 12, between lines 10 and 11, begin a new line block indented and insert:

**"(5) An organization that is eligible to apply for a charity gaming license under IC 4-32.2."**

Page 12, line 11, delete "(5)" and insert **"(6)"**.

Page 12, between lines 12 and 13, begin a new line block indented and insert:

**"(7) A person holding a permit issued under IC 7.1-3 for a licensed premises that is not a tavern, including holders of the following:**

**(A) A boat permit.**

**(B) A hotel permit.**

**(C) A fraternal club permit.**

**(D) A resort hotel permit.**

**(E) An airport permit.**

**(F) A satellite facility permit.**

**(G) A microbrewery permit.**

**(H) A social club permit.**

**(I) A civic center permit.**

**(J) A catering hall permit.**

**(K) A dining car permit.**

**(L) A temporary event permit.**

**(M) A permit for any of the following facilities:**

**(i) A stadium.**

**(ii) An automobile race track.**

**(iii) A concert hall."**

Page 12, line 13, delete "license," and insert **"endorsement,"**.

Page 12, line 19, delete "licensed premises" and insert **"tavern"**.

Page 12, line 20, delete "license." and insert **"endorsement."**

Page 12, line 30, delete "license" and insert **"endorsement"**.

Page 12, line 32, delete "license." and insert **"endorsement."**

Page 12, line 34, before "under" delete "license" and insert **"endorsement"**.

Page 12, line 34, after "initial" delete "license" and insert **"endorsement"**.

Page 12, line 37, after "annual" insert **"endorsement or"**.

Page 12, line 38, delete "license" and insert **"endorsement"**.

Page 12, line 39, delete "licensed" and insert **"tavern."**

Page 12, delete line 40.

Page 13, line 3, after "annual" insert **"endorsement or"**.

Page 13, line 5, delete "license." and insert **"endorsement."**

Page 13, between lines 8 and 9, begin a new paragraph and insert:

**"(c) The commission shall deposit all fees collected under this chapter into the enforcement and administration fund established under IC 7.1-4-10."**

Page 13, line 28, delete "license" and insert **"endorsement"**.

Page 14, line 24, delete "licensure." and insert **"an endorsement or license issued under this chapter."**

Page 14, line 27, before "license" insert **"endorsement or"**.

Page 14, line 32, after "issue" insert **"an endorsement or"**.

Page 14, line 37, delete "licensure." and insert **"holding an endorsement or license issued under this chapter."**

Page 15, line 2, before "license" insert **"endorsement or"**.

Page 15, line 16, before "a license" insert **"an endorsement or"**.

Page 15, line 19, delete "A" and insert **"An endorsement or a"**.

Page 15, line 21, after "revoke" insert **"an endorsement or"**.

Page 15, line 23, before "license" insert **"endorsement or"**.

Page 15, line 28, delete "license" and insert **"endorsement"**.

Page 15, line 35, delete "retailer's licensed premises." and insert **"premises of the retailer's tavern."**

Page 17, delete lines 5 through 42.

Page 18, delete lines 1 through 39.

Page 18, line 40, delete "7." and insert **"6."**

Page 18, line 41, after "revoke the" insert **"endorsement or"**.

Page 19, line 22, after "revoke" insert **"an endorsement or"**.

Page 19, line 23, after "suspension of" insert **"an endorsement or"**.

Page 19, between lines 40 and 41, begin a new paragraph and insert:

**"Sec. 6. The commission shall deposit all civil penalties collected under this chapter into the enforcement and administration fund established under IC 7.1-4-10."**

Page 19, line 41, delete "8." and insert **"7."**

Page 20, line 7, delete "licensed premises." and insert **"tavern."**

Page 20, line 18, delete "executive director." and insert **"commission."**

Page 20, line 35, after "for" insert **"endorsements or"**.

Page 20, line 41, delete "executive director," and insert **"commission,"**.

Page 21, line 6, delete "alcohol and tobacco" and insert **"Indiana gaming"**.

Page 21, line 8, delete "executive director" and insert **"commission"**.

Page 21, line 10, delete "9." and insert **"8."**

Page 21, line 34, delete "10." and insert **"9."**

Page 22, line 31, delete "type II gaming enforcement" and insert **"state general"**.

Page 22, delete lines 32 through 40.

Page 23, line 9, delete "(IC 4-36-10);" and insert **"(IC 4-36-9);"**.

Page 23, delete lines 35 through 42.

Delete page 24.

Page 25, delete lines 1 through 20.

Page 25, delete lines 29 through 34.

Renumber all SECTIONS consecutively.

(Reference is to HB 1153 as reprinted January 29, 2008.)  
and when so amended that said bill do pass.  
Committee Vote: Yeas 8, Nays 3.

MEEKS, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Engrossed House Bill 1219, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 3, line 22, reset in roman "the".

Page 3, line 22, delete "sixty-six and".

Page 3, line 23, delete "two-thirds percent (66 2/3%) of the entire".

Page 3, line 28, after "funds" delete ",".

Page 3, line 28, delete "and each subsequent July 1,".

Page 3, line 29, reset in roman "may".

Page 3, line 29, delete "shall".

Page 3, line 30, delete "one (1)".

Page 3, line 30, strike "million dollars".

Page 3, line 31, delete "(\$1,000,000)" and insert **"two hundred fifty thousand dollars (\$250,000)"**.

Page 3, line 41, after "IC 21-25-2-1;" insert **"and"**.

Page 3, line 42, delete "four" and insert **"one"**.

Page 3, line 42, delete "(\$4,000,000)" and insert **"(\$1,000,000)"**.

Page 4, line 5, after "IC 21-22-2-1" delete "; and" and insert **","**.

Page 4, delete lines 6 through 8.

Page 4, line 10, delete "ten" and insert **"two"**.

Page 4, line 10, delete "(10%)" and insert **"(2%)"**.

(Reference is to EHB 1219 as printed February 15, 2008.)  
and when so amended that said bill do pass.  
Committee Vote: Yeas 9, Nays 0.

MEEKS, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Local Government and Elections, to which was referred Engrossed House Bill 1196, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 2, delete lines 11 through 28, begin a new paragraph and insert:

"SECTION 2. IC 3-5-2-49.9, AS ADDED BY P.L.164-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 49.9. ~~(a)~~ "Vote center" means a polling place where a voter who resides in the county in which the vote center is located may vote without regard to the precinct in which the voter resides.

~~(b) This section expires December 31, 2009.~~

SECTION 3. IC 3-6-3.9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

#### **Chapter 3.9. Investigation of Violations of Election Law**

**Sec. 1. The secretary of state may conduct public or private investigations as the secretary of state considers necessary or appropriate to:**

**(1) determine whether a violation of:**

**(A) this title;**

**(B) a rule adopted under this title; or**

**(C) an order issued under this title;**

**has occurred, is occurring, or is about to occur; or**

**(2) aid in the enforcement of:**

**(A) this title; or**

**(B) rules adopted under this title.**

**Sec. 2. (a) If, after conducting an investigation under section 1 of this chapter, the secretary of state determines that a violation has occurred, is occurring, or is about to occur, the secretary of state shall refer the results of the investigation to the appropriate local, state, or federal agency.**

**(b) If, after conducting an investigation under section 1 of this chapter, the secretary of state determines that there is a basis for belief that there may have been a violation of criminal law, the secretary of state shall refer the results of the investigation to the appropriate federal agencies or the appropriate prosecuting attorney.**

**(c) At the request of:**

**(1) a federal, state, or local agency receiving a referral described in subsection (a) or (b); or**

**(2) a prosecuting attorney receiving a referral described in subsection (b);**

**the secretary of state shall give all necessary and reasonable assistance to the agency or the prosecuting attorney to facilitate the investigation of violations and the enforcement of this title.**

**(d) A federal, state, or local agency or a prosecuting attorney to which the secretary of state has referred investigation results under subsection (a) or (b) shall report to the secretary of state the agency's or prosecuting attorney's decision as to whether to take further action on the referral.**

(e) A report made under subsection (d) must be filed with the secretary of state on the earlier of the following:

- (1) One hundred eighty (180) days after the date of the referral.
- (2) Sixty (60) days before the date the statute of limitations expires on a violation that was referred.

Sec. 3. (a) In conducting an investigation under this chapter, the secretary of state or a person designated by the secretary of state to exercise the powers provided in this section may do any of the following:

- (1) Administer oaths and affirmations.
- (2) Issue and serve subpoenas requiring:
  - (A) the appearance of a witness in person before the secretary of state or any person designated by the secretary of state; or
  - (B) the production of books, papers, electronic data, and documents or other things.
- (3) Question witnesses.
- (4) Require the filing of statements and other evidence.
- (5) Take depositions in the manner prescribed by law for depositions in civil actions.
- (6) Transcribe testimony provided by witnesses by deposition or other methods.
- (7) Examine, inspect, or test, or cause to be examined, inspected, or tested, any machine, computer, or other thing.
- (8) Apply to a court to enforce a subpoena or any other investigative request issued under this chapter.

(b) Each witness who appears before the secretary of state or a person designated by the secretary of state under subsection (a) by subpoena or other order is entitled to receive for the witness's attendance the fees and mileage provided for witnesses in civil cases, which shall be audited and paid by the state in the same manner as other expenses of the secretary of state are audited and paid upon the presentation of proper vouchers sworn to by the witnesses and approved by the secretary of state. However, a witness subpoenaed by a party other than the secretary of state or a person designated by the secretary of state under subsection (a) is not entitled to any fee or compensation from the state.

Sec. 4. (a) This section applies if:

- (1) a person disobeys a lawful:
  - (A) subpoena issued under this chapter; or
  - (B) demand issued under this chapter requiring the production of books, accounts, papers, records, documents, or other evidence or information; or
- (2) a witness refuses to:
  - (A) appear when subpoenaed;
  - (B) testify to any matter regarding which the witness may lawfully be questioned; or
  - (C) take or subscribe an oath required under this chapter.

(b) The secretary of state may file a written petition with the circuit or superior court of the county in which the investigation is being or will be conducted or where production is ordered to be made to compel:

- (1) obedience to the lawful requirements of the subpoena or order;

(2) the production of the necessary or required books, papers, records, documents, or other evidence or information; or

(3) a witness to:

- (A) appear in any county in Indiana and to testify to any matter regarding which the witness may lawfully be interrogated; or
- (B) take or subscribe to an oath required under this chapter.

(c) The court shall hold a hearing to determine whether the person referred to in subsection (a)(1) may lawfully refuse to comply with the subpoena or demand or whether the witness referred to in subsection (a)(2) may lawfully refuse to appear, take an oath, and testify.

(d) If the court determines that the person referred to in subsection (a)(1) or the witness referred to in subsection (a)(2), based upon the person's or witness's privilege against self-incrimination, may properly refuse to answer a particular question or produce a particular item, the court shall grant use immunity to the person or witness at the written request of the secretary of state. The court shall instruct the person or witness, by written order or in open court, that:

- (1) evidence the person or witness gives, or evidence derived from that evidence, may not be used in any criminal proceedings against the person or witness, unless the evidence is volunteered by the person or witness or is not responsive to a question; and
- (2) the person or witness must answer the questions asked or produce the items requested.

A grant of use immunity under this subsection does not prohibit the use of evidence that the person or witness gives in an investigation from being used in a prosecution for perjury under IC 35-44-2-1.

(e) If a person:

- (1) refuses to give the evidence after the person has been granted use immunity under subsection (d); or
- (2) otherwise fails, refuses, or neglects to comply with a court order under this section;

the court shall punish the person for contempt of court.

(f) This section does not preclude a person from applying to the circuit or superior court in the county in which the investigation is being or will be conducted or where production is ordered to be made for relief from a request or order to appear, testify, file a statement, produce records, or obey a subpoena.

Sec. 5. At the secretary of state's request, the attorney general shall give all necessary assistance to the secretary of state to implement this chapter."

Page 3, delete lines 24 through 42, begin a new paragraph and insert:

"SECTION 6. IC 3-8-2-15 IS TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 15. (a) A person who files a declaration of candidacy for an elected office for which a per diem or salary is provided for by law is disqualified from filing a declaration of candidacy for another office for which a per diem or salary is provided for by law until the original declaration is withdrawn.

(b) A person may file both:

- (1) a declaration of candidacy under this chapter for nomination to a federal or state office; and
- (2) a written request under IC 3-8-3-1 that the person's name be placed on the ballot in a primary election as a candidate for nomination for the office of President of the United States.

~~(c) A person may not file:~~

- ~~(1) a declaration of candidacy for a nomination; and~~
- ~~(2) a petition of nomination or declaration of intent to be a write-in candidate for a school board office that is elected at the same time as the primary election.~~

~~If a person files both a declaration of candidacy and a petition of nomination described in this subsection, the matter shall be referred to the county election board under section 18 of this chapter. The board shall determine which document was most recently filed and shall consider the previously filed document to have been withdrawn.~~

SECTION 7. IC 3-8-2-19 IS TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 19. (a) Upon receipt of the certified list under section 17 of this chapter, a county election board shall immediately compile under the proper political party designation the following:

- (1) The title of each office.
- (2) The name of each individual who has filed a request to be placed on the presidential primary ballot.
- (3) The names and addresses of all persons for whom declarations of candidacy have been filed for nomination to an office on the primary election ballot.
- ~~(4) The names and addresses of all persons who have filed a petition of nomination for election to a school board office to be chosen at the same time as the primary election.~~
- ~~(5) (4)~~ The text of any public question to be placed on the ballot.
- ~~(6) (5)~~ The date of the primary election.
- ~~(7) (6)~~ The hours during which the polls will be open.

(b) The county election board shall do the following:

- (1) Publish the information described in subsection (a) before the primary election in accordance with IC 5-3-1.
- (2) File a copy of the information described in subsection (a):
  - (A) with the election division; and
  - (B) in the minutes of the county election board.

(c) The county election board shall file the copies required under subsection (b)(2) not later than noon ten (10) days before election day.

(d) An election is not invalidated by the failure of the board to comply with this section.

(e) If the county election board receives an amendment from the election division under section 17 of this chapter after:

- (1) compilation of the information described in subsection (a) has occurred; or
- (2) the board determines that it is impractical to recompile completely revised information;

the board is only required to file a copy of the amendment with the minutes of the board.

SECTION 8. IC 3-8-2.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]:

#### **Chapter 2.5. Nomination for School Board Office**

**Sec. 1. This chapter applies to a candidate for a school board office.**

**Sec. 2. A candidate for a school board office must file a petition of nomination in accordance with IC 3-8-6 and as required under IC 20-23 or IC 20-25. The petition of nomination, once filed, serves as the candidate's declaration of candidacy for a school board office.**

**Sec. 3. A candidate for a school board office is not required to file a statement of organization for the candidate's principal committee unless the candidate has received contributions or made expenditures requiring the filing of a statement under IC 3-9-1-5.5. If a candidate for a school board office is required to file a statement of organization for the candidate's principal committee, the statement of organization must be filed by noon seven (7) days after the final date for filing a petition of nomination or declaration of intent to be a write-in candidate.**

**Sec. 4. (a) A petition of nomination for a school board office must be filed not earlier than one hundred four (104) days and not later than noon seventy-four (74) days before the general election. The petition must be subscribed and sworn to before a person authorized to administer oaths.**

**(b) A declaration of intent to be a write-in candidate for a school board office must be filed not earlier than ninety (90) days before the general election and not later than noon five (5) days before the final date for the delivery of absentee ballots under IC 3-11-4-15. The declaration must be subscribed and sworn to before a person authorized to administer oaths.**

SECTION 9. IC 3-10-1-19, AS BY P.L.164-2006, SECTION 71, IS TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 19. (a) The ballot for a primary election shall be printed in substantially the following form for all the offices for which candidates have qualified under IC 3-8:

#### **OFFICIAL PRIMARY BALLOT**

\_\_\_\_\_ Party

For paper ballots, print: To vote for a person, make a voting mark (X or ✓) on or in the box before the person's name in the proper column. For optical scan ballots, print: To vote for a person, darken or shade in the circle, oval, or square (or draw a line to connect the arrow) that precedes the person's name in the proper column. For optical scan ballots that do not contain a candidate's name, print: To vote for a person, darken or shade in the oval that precedes the number assigned to the person's name in the proper column. For electronic voting systems, print: To vote for a person, touch the screen (or press the button) in the location indicated.

Vote for one (1) only  
Representative in Congress

- |                                 |       |
|---------------------------------|-------|
| <input type="checkbox"/> (1) AB | _____ |
| <input type="checkbox"/> (2) CD | _____ |
| <input type="checkbox"/> (3) EF | _____ |
| <input type="checkbox"/> (4) GH | _____ |



(b) The offices with candidates for nomination shall be placed on the primary election ballot in the following order:

- (1) Federal and state offices:
  - (A) President of the United States.
  - (B) United States Senator.
  - (C) Governor.
  - (D) United States Representative.
- (2) Legislative offices:
  - (A) State senator.
  - (B) State representative.
- (3) Circuit offices and county judicial offices:
  - (A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.
  - (B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.
  - (C) Judge of the probate court.
  - (D) Judge of the county court, with each division separate, as required by IC 33-30-3-3.
  - (E) Prosecuting attorney.
  - (F) Circuit court clerk.
- (4) County offices:
  - (A) County auditor.
  - (B) County recorder.
  - (C) County treasurer.
  - (D) County sheriff.
  - (E) County coroner.
  - (F) County surveyor.
  - (G) County assessor.
  - (H) County commissioner.
  - (I) County council member.
- (5) Township offices:
  - (A) Township assessor.
  - (B) Township trustee.
  - (C) Township board member.
  - (D) Judge of the small claims court.
  - (E) Constable of the small claims court.
- (6) City offices:
  - (A) Mayor.
  - (B) Clerk or clerk-treasurer.
  - (C) Judge of the city court.
  - (D) City-county council member or common council member.
- (7) Town offices:
  - (A) Clerk-treasurer.
  - (B) Judge of the town court.
  - (C) Town council member.

(c) The political party offices with candidates for election shall be placed on the primary election ballot in the following order after the offices described in subsection (b):

- (1) Precinct committeeman.
- (2) State convention delegate.

(d) The following offices and public questions shall be placed on the primary election ballot in the following order after the offices described in subsection (c):

- ~~(1) School board offices to be elected at the primary election.~~

~~(2) Other~~ Local offices to be elected at the primary election.

~~(3) (2)~~ Local public questions.

(e) The offices and public questions described in subsection (d) shall be placed:

- (1) in a separate column on the ballot if voting is by paper ballot;
- (2) after the offices described in subsection (c) in the form specified in IC 3-11-13-11 if voting is by ballot card; or
- (3) either:

(A) on a separate screen for each office or public question; or

(B) after the offices described in subsection (c) in the form specified in IC 3-11-14-3.5;

if voting is by an electronic voting system.

(f) A public question shall be placed on the primary election ballot in the following form:

(The explanatory text for the public question, if required by law.)

"Shall (insert public question)?"

☐ YES

☐ NO

SECTION 10. IC 3-10-1-19.2 IS TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 19.2. (a) Whenever candidates are to be nominated for an office that includes more than one (1) district, the districts shall be placed on the ballot in alphabetical or numerical order, according to the designation given to the district.

(b) Whenever candidates are to be nominated for an office that includes both an at-large member and a member representing a district, the candidates seeking nomination as an at-large member shall be placed on the ballot before candidates seeking nomination to represent a district.

~~(c) This subsection applies to a school board office or political office to be elected at the primary election ballot.~~ Candidates for a school board office or a political party office shall be placed on the ballot in accordance with the rules applicable to candidates for nomination to an office under subsections (a) and (b).

SECTION 11. IC 3-10-1-32 IS TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 32. Primary election returns must contain the whole number of votes cast for **each of the following**:

- (1) Each candidate of each political party.
- (2) Each public question voted on at the primary election.
- ~~and~~
- (3) Each candidate for election to a school board office or political party office.

SECTION 12. IC 3-11-8-2 IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. A voter shall vote at the polls for the precinct where the voter resides except when authorized to vote:

- (1) in another precinct under IC 3-10-10, IC 3-10-11, or IC 3-10-12; ~~or~~
- (2) at a special voting poll under section 6.5 of this chapter; ~~or~~
- (3) at an alternate polling place under section 3.3 of this chapter.

SECTION 13. IC 3-11-8-3.2 IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3.2. (a) A county executive shall give ten (10) days notice of the place of voting in each precinct by publication in the manner prescribed by IC 5-3-1-4. The notice must include the following information:

- (1) For each precinct, whether the polls are located in an accessible facility.
- (2) If special polling places are designated under section 6.5 of this chapter:

- (A) the location of each special polling place; and
- (B) the procedures for elderly voters and voters with disabilities to apply to vote at a special polling place.

(b) If it is necessary to change a place for voting after giving notice, notice of the change shall be given in the same manner. However, except as provided in subsection (c) **or section 3.3 of this chapter**, a change may not be made within two (2) days before an election.

(c) If the county election board determines by a unanimous vote of the board's entire membership that the use of a polling place at an election would be dangerous or impossible, the county election board may order the relocation of the polling place during the final two (2) days before an election. The county election board shall give the best possible notice of this change to news media and the voters of the precinct. If an order is adopted under this subsection, the order expires after the election.

SECTION 14. IC 3-11-8-3.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 3.3. (a) Before each election that is held after June 30, 2008, each:**

- (1) county election board; and**
- (2) county board of elections and registration;**

**shall designate at a central location in the jurisdiction in which the election will be held at least one (1) alternate polling place for use in the event that voters are unable to vote in their assigned polling place because the polls do not open within one (1) hour after the time that the polls are required to open under section 8 of this chapter.**

**(b) If the polls in any precinct do not open within one (1) hour after the polls are required to open under section 8 of this chapter, the county election board or county board of elections and registration shall order the relocation of the polling place to the alternate polling place designated under subsection (a).**

**(c) The county election board shall give the best possible notice of the relocation of the polling place to the news media and the voters of the precinct.**

**(d) If the jurisdiction in which the election will be held has at least twenty-five thousand (25,000) active voters, the county election board or county board of elections and registration shall designate at least one (1) alternate polling place at a central location in each township included in the jurisdiction in which the election will be held.**

**(e) An alternate polling place designated under this section must:**

- (1) be located in an accessible facility; and**
- (2) operate under all other requirements for precincts and polls under this title.**

**(f) Votes cast at an alternate polling place shall be counted and reported in the same manner as if the votes had been cast at the polls that did not open within the period required under subsection (a)."**

Delete pages 4 through 7.

Page 8, delete lines 1 through 17.

Page 8, line 40, delete "A voter described by either of the following is not required".

Page 8, delete line 41.

Page 8, line 42, delete "(1)".

Page 8, run in lines 40 through 42.

Page 9, line 1, delete ".".

Page 9, line 1, reset in roman "is".

Page 9, reset in roman lines 2 through 3.

Page 9, delete lines 4 through 12.

Page 10, delete lines 11 through 36.

Page 11, delete lines 9 through 42.

Delete pages 12 through 15.

Page 16, delete lines 1 through 19.

Page 19, delete lines 22 through 42, begin a new paragraph and insert:

"SECTION 19. IC 3-11-18-1, AS ADDED BY P.L.164-2006, SECTION 119, IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. This chapter applies to a county designated as a vote center ~~pilot~~ county under this chapter.

SECTION 20. IC 3-11-18-3, AS ADDED BY P.L.164-2006, SECTION 119, IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) For a county to be designated a vote center ~~pilot~~ county:

- (1) the county election board (or board of elections and registration established under IC 3-6-5.2 or IC 3-6-5.4), by unanimous vote of the entire membership of the board, must approve ~~the filing of an application to be designated~~ **an order designating the county** a vote center ~~pilot~~ county;
- (2) all members of the board must sign the ~~application;~~ **order;** and
- (3) the ~~application order~~ must be filed with the ~~secretary of state;~~ **election division.**

(b) The ~~application order~~ **order filed with the election division** must include **a copy of:**

- (1) a resolution adopted by the county executive; and
- (2) a resolution adopted by the county fiscal body;

approving the ~~submission designation~~ of the ~~application;~~ **county as a vote center county.**

SECTION 21. IC 3-11-18-4, AS ADDED BY P.L.164-2006, SECTION 119, IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. The ~~application order~~ **order adopted by the county election board** must include a plan for the administration of vote centers in the county. The plan must include at least the following:

- (1) The total number of vote centers to be established.
- (2) The location of each vote center. ~~and the municipality, if any, in which the vote center is located;~~
- ~~(3) A list of each municipality within the county that is entitled to conduct a municipal primary or municipal election; as of the date of the application;~~

**(3) The effective date of the order.**

(4) The total number of voters ~~within each municipality, in the county~~, as of the date of the ~~application, order~~, and the number of those voters ~~within each municipality~~ designated as "active" and "inactive" according to the ~~county voter registration office~~: **computerized list (as defined in IC 3-7-26.3-2).**

(5) For each vote center designated under subdivision (2), a list of the precincts whose polls will be located at the vote center.

(6) For each vote center designated under subdivision (2), the number of precinct election boards that will be appointed to administer an election at the vote center.

(7) For each precinct election board designated under subdivision (6), the number and name of each precinct the precinct election board will administer.

(8) For each vote center designated under subdivision (2), the number and title of the precinct election officers who will be appointed to serve at the vote center.

(9) For each vote center designated under subdivision (2):

(A) the number and type of ballot variations that will be provided at the vote center; and

(B) whether these ballots will be:

(i) delivered to the vote center before the opening of the polls; or

(ii) printed on demand for a voter's use.

(10) A detailed description of any hardware, firmware, or software used:

(A) to create an electronic poll list for each precinct whose polls are to be located at a vote center; or

(B) to establish a secure electronic connection between the county election board and the precinct election officials administering a vote center.

(11) A description of the equipment and procedures to be used to ensure that information concerning a voter entered into any electronic poll list used by precinct election officers at a vote center is immediately accessible to:

(A) the county election board; and

(B) the electronic poll lists used by precinct election officers at all other vote centers in the county.

(12) For each precinct designated under subdivision (5), the number of electronic poll lists to be provided for the precinct.

(13) The security and contingency plans to be implemented by the county to:

(A) prevent a disruption of the vote center process; and

(B) ensure that the election is properly conducted if a disruption occurs.

(14) A certification that the vote center complies with the accessibility requirements applicable to polling places under IC 3-11-8.

(15) A sketch depicting the planned layout of the vote center, indicating the location of:

(A) equipment; and

(B) precinct election officers;

within the vote center.

(16) The total number of vote centers to be established at satellite offices that are established under IC 3-11-10-26.3

to allow voters to cast absentee ballots in accordance with IC 3-11.

SECTION 22. IC 3-11-18-5, AS ADDED BY P.L.164-2006, SECTION 119, IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. ~~(a) Except for a municipality described in subsection (b);~~ A plan must provide a vote center for use by voters residing in ~~each municipality~~ within the county ~~conducting for use in a primary election, general election, special election, a municipal primary, or a municipal election conducted on or after the effective date of the county election board's order.~~

~~(b) A vote center may not be used in a municipal primary or municipal election conducted within a municipality that is partially located in a county that has not been designated a vote center pilot county.~~

SECTION 23. IC 3-11-18-6, AS ADDED BY P.L.164-2006, SECTION 119, IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. When the total number of voters designated under section 4(4) of this chapter as "active" equals at least twenty-five thousand (25,000), ~~in the municipalities listed in the plan~~, the following apply:

(1) The plan must provide for at least one (1) vote center for each ten thousand (10,000) active voters.

(2) In addition to the vote centers designated in subdivision (1), the plan must provide for a vote center for any fraction of ten thousand (10,000) voters.

SECTION 24. IC 3-11-18-7, AS ADDED BY P.L.164-2006, SECTION 119, IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. Before approving ~~an application to designate an order designating~~ a county as a vote center ~~pilot~~ county under this chapter, the ~~secretary of state county election board~~ must determine the following:

(1) That the secure electronic connection as described under section 4(10)(B) of this chapter is sufficient to prevent:

(A) any voter from voting more than once; and

(B) unauthorized access by any person to:

(i) the electronic poll lists for a precinct whose polls are to be located at the vote center; or

(ii) the computerized list of voters of the county.

(2) That the planned design and location of the equipment and precinct officers will provide the most efficient access for:

(A) voters to enter the polls, cast their ballots, and leave the vote center; and

(B) precinct election officials, watchers, challengers, and pollbook holders to exercise their rights and perform their duties within the vote center.

SECTION 25. IC 3-11-18-8, AS ADDED BY P.L.164-2006, SECTION 119, IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. ~~(a) The designation of a county as a vote center pilot county takes effect immediately upon the filing of the order with the election division, unless otherwise specified by the secretary of state county election board.~~

~~(b) The designation of a county as a vote center county remains in effect until the county election board, by unanimous vote of its entire membership:~~

- (1) rescinds the order designating the county as a vote center county; and**
- (2) files a copy of the document rescinding the order with the election division.**

SECTION 26. IC 3-11-18-11, AS ADDED BY P.L.164-2006, SECTION 119, IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. Except as otherwise provided by this chapter, the county shall administer an election conducted at a vote center in accordance with federal law, this title, and the plan ~~submitted~~ **adopted** with the ~~application~~ **county election board's order** under section 4 of this chapter.

SECTION 27. IC 3-11-18-15, AS ADDED BY P.L.164-2006, SECTION 119, IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. (a) In addition to the precinct election officers appointed under IC 3-6-6, a county election board by the unanimous vote of the entire membership may appoint one (1) or more greeters to:

- (1) direct voters entering the vote center to the appropriate location for the voters to sign the electronic poll list; and
- (2) provide other instructions to facilitate the efficient movement of individuals within the vote center.

(b) An individual appointed as a greeter under this section must bear credentials issued by the county election board stating the name of the individual and the individual's status as a greeter.

**(c) The plan adopted with a county election board's order under section 4 of this chapter may authorize precinct election officials to perform duties specified under this title using alternative procedures described in the plan in order to efficiently administer the county's vote centers.**

SECTION 28. IC 3-11-18-17, AS ADDED BY P.L.164-2006, SECTION 119, IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. (a) ~~The secretary of state may permit A~~ county ~~to may~~ amend a plan ~~submitted~~ **adopted with a county election board's order** under section 4 of this chapter.

(b) For a county to amend its plan:

- (1) the county election board (or board of elections and registration established under IC 3-6-5.2 or IC 3-6-5.4), by unanimous vote of the entire membership of the board, must approve the ~~filing of a request to amend the plan~~ **amendment**;
- (2) all members of the board must sign the ~~request~~ **amendment**; and
- (3) the ~~request~~ **amendment** must be filed with the ~~secretary of state~~ **election division**.

~~(c) The request for amendment must set forth the specific amendments proposed to be made to the plan.~~

**(c) A plan amendment takes effect immediately upon filing with the election division, unless otherwise specified by the county election board.**

SECTION 29. IC 3-14-2-9 IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. A person who knowingly votes or offers to vote at an election when the person is not registered or authorized to vote commits a ~~Class D~~ **Class C** felony.

SECTION 30. IC 3-14-2-11 IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. Except as provided by IC 3-10-10, IC 3-10-11, or IC 3-10-12, a person who knowingly votes or offers to vote in a precinct except the one in which the

person is registered and resides commits a ~~Class D~~ **Class C** felony.

SECTION 31. IC 3-14-2-13, AS BY P.L.103-2005, SECTION 25, IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. A person who knowingly hires or solicits another person to go into a precinct for the purpose of voting at an election at the precinct when the person hired or solicited is not a voter in the precinct commits a ~~Class D~~ **Class C** felony.

SECTION 32. IC 3-14-2-14 IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. A precinct election officer or public official upon whom a duty is imposed by this title who knowingly:

- (1) allows a person to vote who is not entitled to vote; or
- (2) allows a person to vote by use of an unauthorized procedure;

commits a ~~Class D~~ **Class C** felony.

SECTION 33. IC 3-14-2-15, AS BY P.L.103-2005, SECTION 26, IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. A member, an employee, or an agent of a county election board who knowingly delivers a ballot to a person except in the manner prescribed by this title commits a ~~Class D~~ **Class C** felony.

SECTION 34. IC 3-14-2-16, AS BY P.L.103-2005, SECTION 27, IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. A person who knowingly does any of the following commits a ~~Class D~~ **Class C** felony:

- (1) Applies for or receives a ballot in a precinct other than that precinct in which the person is entitled to vote.
- (2) Except when receiving assistance under IC 3-11-9, shows a ballot after it is marked to another person in such a way as to reveal the contents of it or the name of a candidate for whom the person has voted.
- (3) Except when offering assistance requested by a voter in accordance with IC 3-11-9, examines a ballot that a voter has prepared for voting or solicits the voter to show the ballot.
- (4) Receives from a voter a ballot prepared by the voter for voting, except:
  - (A) the inspector;
  - (B) a member of the precinct election board temporarily acting for the inspector;
  - (C) a member or an employee of a county election board (acting under the authority of the board and state law) or an absentee voter board member acting under IC 3-11-10; or
  - (D) a member of the voter's household, an individual designated as attorney in fact for the voter, or an employee of:
    - (i) the United States Postal Service; or
    - (ii) a bonded courier company;

(acting in the individual's capacity as an employee of the United States Postal Service or a bonded courier company) when delivering an envelope containing an absentee ballot under IC 3-11-10-1.

- (5) Receives a ballot from a person other than one of the poll clerks or authorized assistant poll clerks.

(6) Delivers a ballot to a voter to be voted, unless the person is:

- (A) a poll clerk or authorized assistant poll clerk; or
- (B) a member of a county election board or an absentee voter board acting under IC 3-11-10.

(7) Delivers a ballot (other than an absentee ballot) to an inspector that is not the ballot the voter receives from the poll clerk or assistant poll clerk.

(8) Delivers an absentee ballot to a team of absentee ballot counters appointed under IC 3-11.5-4-22, a county election board, a circuit court clerk, or an absentee voting board under IC 3-11-10 that is not the ballot cast by the absentee voter.

(9) Delivers an absentee ballot prepared by the voter for voting to a county election board, except for:

- (A) the inspector;
- (B) a member of the precinct election board temporarily acting for the inspector;
- (C) a member or an employee of a county election board (acting under the authority of the board and in accordance with state law) or an absentee voter board member acting under IC 3-11-10; or
- (D) a member of the voter's household or an individual designated as attorney in fact for the voter, an employee of:

- (i) the United States Postal Service; or
- (ii) a bonded courier company;

(acting in the individual's capacity as an employee of the United States Postal Service or a bonded courier company) when delivering an envelope containing an absentee ballot under IC 3-11-10-1.

(10) Possesses an unmarked absentee ballot on or before the date of the election for which the absentee ballot has been printed, unless the person is authorized to possess the absentee ballot under this title as any of the following:

- (A) A printer, when arranging for the delivery of unmarked absentee ballots to a county election board under IC 3-11-2.
- (B) A county election board member or employee (acting under the authority of the board and in accordance with state law).
- (C) An absentee voter board member.
- (D) An employee of:
  - (i) the United States Postal Service; or
  - (ii) a bonded courier company;

(acting in the individual's capacity as an employee of the United States Postal Service or a bonded courier company) when delivering an envelope containing an absentee ballot.

(E) An individual authorized under IC 3-11-10-24 to deliver an absentee ballot.

(F) An absentee ballot counter under IC 3-11.5.

(G) A provisional ballot counter.

(H) A precinct election officer.

(I) The voter who applied for the absentee ballot.

(11) Completes or signs an absentee ballot application for a voter, or assists a voter in completing an absentee ballot application in violation of IC 3-11.

SECTION 35. IC 3-14-2-17 IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. A voter at an election who knowingly writes or places on a ballot a name, sign, or device as a distinguishing mark by which to indicate to any other person how the voter has voted commits a ~~Class D~~ **Class C** felony.

SECTION 36. IC 3-14-2-20 IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. A person who knowingly:

- (1) deceives a voter in registering the voter's vote under IC 3-11-8; or
- (2) registers a voter's vote in a way other than as requested by the voter;

commits a ~~Class D~~ **Class C** felony.

SECTION 37. IC 3-14-2-21 IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 21. A person who fraudulently causes a voter at an election to vote for a person different from the one the voter intended to vote for or on a public question different from the vote the voter intended to cast commits a ~~Class D~~ **Class C** felony.

SECTION 38. IC 3-14-2-22 IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. A person who knowingly furnishes a voter who cannot read the English language with a ballot at an election that the person represents to the voter as containing a name different from the one printed or written on it commits a ~~Class D~~ **Class C** felony.

SECTION 39. IC 3-14-2-23 IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 23. A person entrusted with the custody of ballots who knowingly:

- (1) opens a package in which the ballots are contained;
- (2) destroys a ballot; or
- (3) delivers such a package or ballot to a person not entitled to receive it;

commits a ~~Class D~~ **Class C** felony.

SECTION 40. IC 3-14-2-24, AS BY P.L.103-2005, SECTION 29, IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 24. A person who **does any of the following commits a Class C felony:**

- (1) Takes a ballot legally deposited out of a ballot box or out of a voting system for the purpose of destroying the ballot or substituting another ballot in its place.
- (2) Destroys or misplaces a ballot with the intent to substitute another ballot for it or with the intent to prevent it from being counted. ~~or~~
- (3) Knowingly enters upon the pollbooks the name of a person who has not legally voted or knowingly tallies a vote for a candidate or on a public question not voted for by the ballot.

commits a ~~Class D~~ **felony.**

SECTION 41. IC 3-14-2-25 IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 25. A member of a precinct election board or county election board, a person employed at the central counting headquarters, or a person charged with a duty in connection with an election or entrusted with the custody or control of a ballot either before or after voting who marks or defaces a ballot for the purpose of:

- (1) identifying the ballot (except by numbering protested ballots for future reference as provided by law); or

(2) vitiating the ballot;  
 commits a ~~Class D~~ **Class C** felony.

SECTION 42. IC 3-14-2-26, AS BY P.L.103-2005, SECTION 30, IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 26. A person who **does any of the following commits a Class C felony:**

- (1) During the progress of an election or within the time for preparation required under this title, knowingly breaks open or violates the seal or lock of a ballot box, envelope, container, bag, or voting system component in which ballots have been deposited.
- (2) Knowingly obtains a ballot box, envelope, container, bag, or voting system component that contains ballots and cancels, withholds, or destroys a ballot.
- (3) Knowingly increases or decreases the number of ballots legally deposited in a ballot box, envelope, container, bag, or voting system component. ~~or~~
- (4) Knowingly makes a fraudulent erasure or alteration on a tally sheet, pollbook, list of voters, or election return deposited in a ballot box, envelope, bag, or voting system component.

commits a ~~Class D~~ **Class C** felony.

SECTION 43. IC 3-14-2-27 IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 27. A precinct election officer at the close of the polls, an absentee ballot counter acting under IC 3-11.5-5 or IC 3-11.5-6, or a provisional ballot counter acting under IC 3-11.7-5 who knowingly:

- (1) causes the vote to be incorrectly taken down for a candidate or public question; or
- (2) makes a false statement, certificate, or return of any kind of that vote;

commits a ~~Class D~~ **Class C** felony.

SECTION 44. IC 3-14-2-28 IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 28. A person who:

- (1) with intent to defraud, alters an election return;
- (2) knowingly destroys, misplaces, or loses a pollbook or tally sheet; or
- (3) with intent to defraud, alters the vote of a candidate or on a public question as returned by the county election board or its employees;

commits a ~~Class D~~ **Class C** felony.

SECTION 45. IC 3-14-3-17 IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. A member of a precinct election board, a precinct election officer, or a member of an absentee voter board who knowingly induces or persuades a voter to vote for a candidate or for or against a public question while acting as a board member or precinct election officer commits a ~~Class D~~ **Class C** felony.

SECTION 46. IC 3-14-3-19, AS BY P.L.103-2005, SECTION 37, IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. A person who, for the purpose of inducing or procuring another person to:

- (1) apply for or cast an absentee ballot; or
- (2) vote or refrain from voting for or against a candidate or for or against a public question at an election or political convention;

gives, offers, or promises to any person any money or other property commits a ~~Class D~~ **Class C** felony.

SECTION 47. IC 3-14-3-20, AS BY P.L.103-2005, SECTION 38, IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. A person who, for the purpose of inducing or procuring a voter to:

- (1) apply for or cast an absentee ballot; or
- (2) vote or refrain from voting for or against a candidate or for or against a public question at an election or political convention;

receives, accepts, requests, or solicits from any person any money or other property commits a ~~Class D~~ **Class C** felony.

SECTION 48. IC 3-14-4-6 IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. An inspector, or person acting in the inspector's behalf, who knowingly deposits:

- (1) a ballot upon which the initials of the poll clerks or authorized assistant poll clerks do not appear; or
- (2) a ballot on which appears externally a distinguishing mark or defacement;

commits a ~~Class D~~ **Class C** felony.

SECTION 49. IC 3-14-4-7 IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. A member of a precinct election board or a person otherwise entitled to the inspection of the ballots who knowingly:

- (1) reveals to another person how a voter has voted; or
- (2) gives information concerning the appearance of any ballot voted;

commits a ~~Class D~~ **Class C** felony.

SECTION 50. IC 3-14-4-8, AS AMENDED BY P.L.221-2005, SECTION 139, IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. A member of a precinct election board, an absentee ballot counter appointed under IC 3-11.5-4-22, or a provisional ballot counter appointed under IC 3-11.7-3 who knowingly:

- (1) opens or marks, by folding or otherwise, a ballot presented by a voter, except as provided by law; or
- (2) tries to find out how the voter voted before the ballot is deposited in the ballot box or cast on a ballot card voting system or an electronic voting system or counted by the absentee ballot counter;

commits a ~~Class D~~ **Class C** felony.

SECTION 51. IC 3-14-4-10, AS BY P.L.221-2005, SECTION 140, IS TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. A person who knowingly violates:

- (1) IC 3-11.5-5;
- (2) IC 3-11.5-6;
- (3) IC 3-12-2-1;
- (4) IC 3-12-3-14; or
- (5) IC 3-12-3.5-7;

by providing any other person with information concerning the number of votes a candidate received for an office or cast to approve or reject a public question on absentee ballots counted under IC 3-11.5-5, IC 3-11.5-6, or IC 3-12 before the closing of the polls commits a ~~Class D~~ **Class C** felony.

SECTION 52. IC 3-14-5-2, AS AMENDED BY P.L.230-2005, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Each precinct election board shall, at the close of the polls, place all affidavits prescribed by this title for use on election day to determine the eligibility of a precinct election officer (or a person

who wishes to cast a ballot) in a strong paper bag or envelope and securely seal it. Each member shall endorse that member's name on the back of the bag or envelope.

(b) The inspector and judge of the opposite political party shall deliver the sealed bag or envelope to the county election board. The county election board shall do the following:

- (1) Remove the affidavits from the bag or envelope.
- (2) Mail a copy of each affidavit to the secretary of state **not later than sixty (60) days after election day.**
- (3) Replace the affidavits within the bag or envelope.
- (4) Reseal the bag or envelope with the endorsement of the name of each county election board member on the back of the bag or envelope.
- (5) Carefully preserve the resealed bag or envelope and deliver it, with the county election board's seal unbroken, to the foreman of the grand jury when next in session.

(c) The grand jury shall inquire into the truth or falsity of the affidavits, and the court having jurisdiction over the grand jury shall specially charge the jury as to its duties under this section.

(d) The grand jury shall file a report of the result of its inquiry with:

- (1) the court; and
- (2) the NVRA official if a violation of NVRA appears to have occurred."

Delete pages 20 through 29.

Page 30, delete lines 1 through 10.

Page 31, after line 42, begin a new paragraph and insert:

"SECTION 56. IC 20-23-4-12, AS AMENDED BY P.L.2-2006, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 12. (a) In formulating a preliminary reorganization plan and with respect to each of the community school corporations that are a part of the reorganization plan, the county committee shall determine the following:

- (1) The name of the community school corporation.
- (2) Subject to subsection (e), a general description of the boundaries of the community school corporation.
- (3) With respect to the board of school trustees, **the following:**

(A) Whether the number of members is:

- (i) three (3);
- (ii) five (5); or
- (iii) seven (7).

(B) Whether the members are elected or appointed.

(C) If the members are appointed:

- (i) when the appointments are made; and
- (ii) who makes the appointments.

(D) If the members are elected, ~~whether that~~ the election is at

- ~~(i) the primary election at which county officials are nominated; or~~
- ~~(ii) the general election at which county officials are elected. and~~

(E) Subject to sections 21 and 22 of this chapter, the manner in which members are elected or appointed.

(4) The compensation, if any, of the members of the regular and interim board of school trustees, which may not exceed the amount provided in IC 20-26-4-7.

(5) Subject to subsection (f), qualifications required of the members of the board of school trustees, including limitations on:

- (A) residence; and
- (B) term of office.

(6) If an existing school corporation is divided in the reorganization, the disposition of assets and liabilities.

(7) The disposition of school aid bonds, if any.

(b) If existing school corporations are not divided in the reorganization, the:

- (1) assets;
- (2) liabilities; and
- (3) obligations;

of the existing school corporations shall be transferred to and assumed by the new community school corporation of which they are a part, regardless of whether the plan provides for transfer and assumption.

(c) The preliminary plan must be supported by a summary statement of **the following:**

(1) The educational improvements the plan's adoption will make possible.

(2) Data showing the:

- (A) assessed valuation;
- (B) number of resident students in ADA in grades 1 through 12;
- (C) assessed valuation per student referred to in clause (B); and
- (D) property tax levies;

of each existing school corporation to which the plan applies.

(3) The:

- (A) assessed valuation;
- (B) resident ADA; and
- (C) assessed valuation per student;

data referred to in subdivision 2(A) through 2(C) that would have applied for each proposed community school corporation if the corporation existed in the year the preliminary plan is prepared or notice of a hearing or hearings on the preliminary plan is given by the county committee. ~~and~~

(4) Any other data or information the county committee considers appropriate or that may be required by the state board in its rules.

(d) The county committee:

(1) shall base the assessed valuations and tax levies referred to in subsection (c)(2) through (c)(3) on the valuations applying to taxes collected in:

- (A) the year the preliminary plan is prepared; or
- (B) the year notice of a hearing or hearings on the preliminary plan is given by the county committee;

(2) may base the resident ADA figures on the calculation of the figures under the rules under which they are submitted to the state superintendent by existing school corporations; and

(3) shall set out the resident ADA figures for:

- (A) the school year in progress if the figures are available for that year; or

(B) the immediately preceding school year if the figures are not available for the school year in progress.

The county committee may obtain the data and information referred to in this subsection from any source the committee considers reliable. If the county committee attempts in good faith to comply with this subsection, the summary statement referred to in subsection (c) is sufficient regardless of whether the statement is exactly accurate.

(e) The general description referred to in subsection (a)(2) may consist of an identification of an existing school corporation that is to be included in its entirety in the community school corporation. If a boundary does not follow the boundary of an existing civil unit of government or school corporation, the description must set out the boundary:

(1) as near as reasonably possible by:

(A) streets;

(B) rivers; and

(C) other similar boundaries;

that are known by common names; or

(2) if descriptions as described in subdivision (1) are not possible, by section lines or other legal description.

The description is not defective if there is a good faith effort by the county committee to comply with this subsection or if the boundary may be ascertained with reasonable certainty by a person skilled in the area of real estate description. The county committee may require the services of the county surveyor in preparing a description of a boundary line.

(f) A member of the board of school trustees:

(1) may not serve an appointive or elective term of more than four (4) years; and

(2) may serve more than one (1) consecutive appointive or elective term.

**SECTION 57. IC 20-23-4-29.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 29.1. (a) This section applies to each school corporation.**

**(b) If a plan provides for election of members of the governing body, the members of the governing body shall be elected at a general election. Each candidate must file a petition of nomination in accordance with IC 3-8-2.5 that is signed by the candidate and by ten (10) registered voters residing within the boundaries of the community school corporation. The filing must be made within the time specified by IC 3-8-2.5-4.**

**(c) All nominations shall be listed for each office in the form prescribed by IC 3-11-2, but without party designation. Voting and tabulation of votes shall be conducted in the same manner as voting and tabulation in general elections are conducted. The precinct election boards serving in each county shall conduct the election for members of the governing body. If a school corporation is located in more than one (1) county, each county election board shall print the ballots required for voters in that county to vote for candidates for members of the governing body.**

**(d) If the plan provides that the members of the governing body shall be elected by all the voters of the community school corporation, candidates shall be placed on the ballot in the form prescribed by IC 3-11-2, without party**

**designation. The candidates who receive the most votes are elected.**

**(e) If the plan provides that members of the governing body are to be elected from residence districts by all voters in the community school corporation, nominees for the governing body shall be placed on the ballot in the form prescribed by IC 3-11-2, by residence districts without party designation. The ballot must state the number of members to be voted on and the maximum number of members that may be elected from each residence district as provided in the plan. A ballot is not valid if more than the maximum number of members are voted on from a board member residence district. The candidates who receive the most votes are elected. However, if more than the maximum number that may be elected from a residence district are among those receiving the most votes, the candidates from the residence districts exceeding the maximum number who receive the fewest votes shall be eliminated in determining the candidates who are elected.**

**(f) If the plan provides that members of the governing body are to be elected from electoral districts solely by the voters of each district, nominees residing in each electoral district shall be placed on the ballot in the form prescribed by IC 3-11-2, without party designation. The ballot must state the number of members to be voted on from the electoral district. The candidates residing in the electoral district who receive the most votes are elected.**

**SECTION 58. IC 20-23-4-30, AS ADDED BY P.L.230-2005, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 30. (a) This section applies to each school corporation.**

**(b) If the governing body is to be elected at the primary election, each registered voter may vote in the governing body election without otherwise voting in the primary election.**

**(c) If a tie vote occurs among any of the candidates, the tie vote shall be resolved under IC 3-12-9-4.**

**(d) If after the first governing body takes office, there is a vacancy on the governing body for any reason, including the failure of the sufficient number of petitions for candidates being filed, whether the vacating member was elected or appointed, the remaining members of the governing body, whether or not a majority of the governing body, shall by a majority vote fill the vacancy by appointing a person from within the boundaries of the community school corporation to serve for the term or balance of the term. An individual appointed under this subsection must possess the qualifications provided for a regularly elected or appointed governing body member filling the office. If:**

**(1) a tie vote occurs among the members of the governing body under this subsection or IC 3-12-9-4; or**

**(2) the governing body fails to act within thirty (30) days after any vacancy occurs;**

**the judge of the circuit court in the county where the majority of registered voters of the school corporation reside shall make the appointment.**

**(e) A vacancy in the governing body occurs if a member ceases to be a resident of any community school corporation. A vacancy does not occur when the member moves from a district**



of the school corporation from which the member was elected or appointed if the member continues to be a resident of the school corporation.

~~(f) (e)~~ At the first ~~primary or~~ general election in which members of the governing body are elected:

- (1) a simple majority of the candidates elected as members of the governing body who receive the ~~highest~~ **greatest** number of votes shall be elected for four (4) year terms; and
- (2) the balance of the candidates elected as members of the governing body receiving the next ~~highest~~ **greatest** number of votes shall be elected for two (2) year terms.

Thereafter, all school board members shall be elected for four (4) year terms.

~~(g) (f)~~ **Elected** governing body members ~~elected~~:

- ~~(1) in November~~ take office and assume their duties on January 1 or July 1 after their election, as determined by the board of school trustees before the election. ~~and~~
- ~~(2) in May~~ take office and assume their duties ~~on July 1~~ after their election.

SECTION 59. IC 20-23-7-6, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 6. (a) The first metropolitan board of education shall be composed of the:

- (1) trustees; and
- (2) members of school boards;

of the school corporations forming the metropolitan board of education.

(b) The members of the metropolitan board of education shall serve ex officio as members subject to the laws concerning length of terms, powers of election, or appointment and filling vacancies applicable to their respective offices.

(c) If a metropolitan school district is comprised of only two (2) board members, the two (2) members shall appoint a third board member not more than ten (10) days after the creation of the metropolitan school district. If the two (2) members are unable to agree on or do not make the appointment of a third board member within the ten (10) day period after the creation of the metropolitan school district, the third member shall be appointed not more than twenty (20) days after the creation of the metropolitan school district by the judge of the circuit court of the county in which the metropolitan school district is located. If the metropolitan school district is located in two (2) or more counties, the judge of the circuit court of the county containing that part of the metropolitan school district having more students than the part or parts located in another county or counties shall appoint the third member. The members of the metropolitan board of education serve until their successors are elected or appointed and qualified.

(d) The first meeting of the first metropolitan board of education shall be held not more than one (1) month after the creation of the metropolitan school district. The first meeting shall be called by the superintendent of schools, or township trustee of a school township, of the school corporation in the district having the largest number of students. At the first meeting, the board shall organize, and **each year** during the first ten (10) days ~~of each July~~ after the board members that are **elected or appointed to a new term take office**, the board shall

reorganize, by electing a president, a vice president, a secretary, and a treasurer.

(e) The secretary of the board shall keep an accurate record of the minutes of the metropolitan board of education, and the minutes shall be kept in the superintendent's office. When a metropolitan school district is formed, the metropolitan superintendent shall act as administrator of the board and shall carry out the acts and duties as designated by the board. A quorum consists of a majority of the members of the board. A quorum is required for the transaction of business. The vote of a majority of those present is required for a:

- (1) motion;
- (2) ordinance; or
- (3) resolution;

to pass.

(f) The board shall conduct its affairs in the manner described in this section. Except in unusual cases, the board shall hold its meetings at the office of the metropolitan superintendent or at a place mutually designated by the board and the superintendent. Board records are to be maintained and board business is to be conducted from the office of the metropolitan superintendent or a place designated by the board and the superintendent.

(g) The metropolitan board of education shall have the power to pay to a member of the board:

- (1) a reasonable per diem for service on the board not to exceed one hundred twenty-five dollars (\$125) per year; and
- (2) for travel to and from a member's home to the place of the meeting within the district, a sum for mileage equal to the amount per mile paid to state officers and employees. The rate per mile shall change when the state government changes its rate per mile.

SECTION 60. IC 20-23-7-8.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 8.1. (a) The registered voters of the metropolitan school district shall elect the members of the metropolitan board of education at general elections held biennially, beginning with the next general election that is held more than sixty (60) days after the creation of the metropolitan school district as provided in this chapter.**

**(b) Each nominee for the board must file a petition of nomination signed by the nominee and by ten (10) registered voters residing in the same board member district as the nominee. The petition must be filed in accordance with IC 3-8-2.5 with the circuit court clerk of each county in which the metropolitan school district is located.**

**(c) Nominees for the board shall be listed on the general election ballot:**

- (1) in the form prescribed by IC 3-11-2;**
- (2) by board member districts; and**
- (3) without party designation.**

**The ballot must state the number of board members to be voted on and the maximum number of members that may be elected from each board member district as provided under section 5 of this chapter. A ballot that contains more votes than the maximum number allowed from a board member district is invalid.**

(d) The precinct election boards in each county serving at the general election shall conduct the election for school board members.

(e) Voting and tabulation of votes shall be conducted in accordance with IC 3, and the candidates who receive the most votes are elected to the board.

(f) If there are more candidates from a particular board member district than may be elected from the board member district under section 5 of this chapter:

- (1) the number of candidates elected is the greatest number that may be elected from the board member district;
- (2) the candidates elected are those who, among the candidates from the board member district, receive the most votes; and
- (3) the other candidates from the board member district are eliminated.

(g) If there is a tie vote among the candidates for the board, the judge of the circuit court in the county where the majority of the registered voters of the metropolitan school district reside shall select one (1) of the candidates who shall be declared and certified elected.

(h) If, at any time after the first board member election, a vacancy on the board occurs for any reason, including an insufficient number of petitions for candidates being filed, and regardless of whether the vacating member was elected or appointed, the remaining members of the board, whether or not a majority of the board, shall by a majority vote fill the vacancy by:

- (1) appointing a person from the board member district from which the person who vacated the board was elected; or
- (2) if the person was appointed, appointing a person from the board member district from which the last elected predecessor of the person was elected.

If a majority of the remaining members of the board is unable to agree or the board fails to act within thirty (30) days after a vacancy occurs, the judge of the circuit court in the county where the majority of registered voters of the metropolitan school district reside shall make the appointment.

(i) At a general election held on the earlier of:

- (1) more than sixty (60) days after an elected board member vacates membership on the board; or
- (2) immediately before the end of the term for which the vacating member was elected;

a successor to a board member appointed under subsection (h) shall be elected. Unless the successor takes office at the end of the term of the vacating member, the member shall serve only for the balance of the vacating member's term. In an election for a successor board member to fill a vacancy for a two (2) year balance of a term, candidates for board membership need not file for or with reference to the vacancy. However, as required by IC 3-11-2, candidates for at-large seats must be distinguished on the ballot from candidates for district seats. If there is more than one (1) at-large seat on the ballot due to this vacancy, the elected candidate who receives the fewest votes at the election at

which the successor is elected shall serve for a two (2) year term.

(j) At the first general election where members of the board are elected under this section, the elected candidates who constitute a simple majority of the elected candidates and who receive the most votes shall be elected for four (4) year terms and the other elected candidates shall be elected for two (2) year terms.

(k) Board members shall be elected for four (4) year terms after the first election and shall take office January 1 following the election.

SECTION 61. IC 20-23-7-12, AS AMENDED BY P.L.1-2007, SECTION 143, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 12. (a) As used in this section, "county" means the county in which the school township is located.

(b) As used in this section, "school township" means a school township in Indiana that:

- (1) for the last full school semester immediately preceding:
  - (A) the adoption of a preliminary resolution by the township trustee and the township board under subsection (f); or
  - (B) the adoption of a resolution of disapproval by the township trustee and the township board under subsection (g);

had an ADM of at least six hundred (600) students in kindergarten through grade 12 in the public schools of the school township; or

- (2) is part of a township in which there were more votes cast for township trustee outside the school township than inside the school township in the general election at which the trustee was elected and that preceded the adoption of the preliminary or disapproving resolution.

(c) As used in this section, "township board" means the township board of a township in which the school township is located.

(d) As used in this section, "township trustee" means the township trustee of the township in which the school township is located.

(e) In a school township, a metropolitan school district may be created by complying with this section. A metropolitan school district created under this section shall have the same boundaries as the school township. After a district has been created under this section, the school township that preceded the metropolitan school district is abolished. The procedures or provisions governing the creation of a metropolitan school district under another section of this chapter do not apply to the creation of a district under this section. After a metropolitan school district is created under this section, the district shall, except as otherwise provided in this section, be governed by and operate in accordance with this chapter governing the operation of a metropolitan school district as established under section 2 of this chapter.

(f) Except as provided in subsection (g), a metropolitan school district provided for in subsection (e) may be created in the following manner:

- (1) The township trustee shall call a meeting of the township board. At the meeting, the township trustee and

a majority of the township board shall adopt a resolution that a metropolitan school district shall be created in the school township. The township trustee shall then give notice:

(A) by two (2) publications one (1) week apart in a newspaper of general circulation published in the school township; or

(B) if there is no newspaper as described in clause (A), in a newspaper of general circulation in the county;

of the adoption of the resolution setting forth the text of the resolution.

(2) On the thirtieth day after the date of the last publication of the notice under subdivision (1) and if a protest has not been filed, the township trustee and a majority of the township board shall confirm their preliminary resolution. If, however, on or before the twenty-ninth day after the date of the last publication of the notice, a number of registered voters of the school township, equal to five percent (5%) or more of the number of votes cast in the school township for secretary of state at the last preceding general election for that office, sign and file with the township trustee a petition requesting an election in the school township to determine whether or not a metropolitan school district must be created in the township in accordance with the preliminary resolution, then an election must be held as provided in subsection (h). The preliminary resolution and confirming resolution provided in this subsection shall both be adopted at a meeting of the township trustee and township board in which the township trustee and each member of the township board received or waived a written notice of the date, time, place, and purpose of the meeting. The resolution and the proof of service or waiver of the notice shall be made a part of the records of the township board.

(g) Except as provided in subsection (f), a metropolitan school district may also be created in the following manner:

(1) A number of registered voters of the school township, equal to five percent (5%) or more of the votes cast in the school township for secretary of state at the last general election for that office, shall sign and file with the township trustee a petition requesting the creation of a metropolitan school district under this section.

(2) The township trustee and a majority of the township board shall, not more than ten (10) days after the filing of a petition:

(A) adopt a preliminary resolution that a metropolitan school district shall be created in the school township and proceed as provided in subsection (f); or

(B) adopt a resolution disapproving the creation of the district.

(3) If either the township trustee or a majority of township board members vote in favor of disapproving the resolution, an election must be held to determine whether or not a metropolitan school district shall be created in the school township in the same manner as is provided in subsection (f) if an election is requested by petition.

(h) An election required under subsection (f) or (g) may, at the option of the township trustee, be held either as a special election

or in conjunction with a primary or general election to be held not more than one hundred twenty (120) days after the filing of a petition under subsection (f) or the adoption of the disapproving resolution under subsection (g). The township trustee shall certify the question to the county election board under IC 3-10-9-3 and give notice of an election:

(1) by two (2) publications one (1) week apart in a newspaper of general circulation in the school township; or  
(2) if a newspaper described in subdivision (1) does not exist, in a newspaper of general circulation published in the county.

The notice must provide that on a day and time named in the notice, the polls shall be opened at the usual voting places in the various precincts in the school township for the purpose of taking the vote of the registered voters of the school township regarding whether a metropolitan school district shall be created in the township. The election shall be held not less than twenty (20) days and not more than thirty (30) days after the last publication of the notice unless a primary or general election will be conducted not more than six (6) months after the publication. In that case, the county election board shall place the public question on the ballot at the primary or general election. If the election is to be a special election, the township trustee shall give notice not more than thirty (30) days after the filing of the petition or the adoption of the disapproving resolution.

(i) On the day and time named in the notice, the polls shall be opened and the votes of the voters shall be taken regarding whether a metropolitan school district shall be created in the school township. IC 3 governs the election except as otherwise provided in this chapter. The county election board shall conduct the election. The public question shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and must state, "Shall a metropolitan school district under IC 20-23-7 be formed in the \_\_\_\_\_ School Township of \_\_\_\_\_ County, Indiana?". The name of the school township shall be inserted in the blanks.

(j) The votes cast in the election shall be canvassed at a place in the school township determined by the county election board. The certificate of the votes cast for and against the creation of a metropolitan school district shall be filed in the records of the township board and recorded with the county recorder. If the special election is not conducted at a primary or general election, the school township shall pay the expense of holding the election out of the school general fund that is appropriated for this purpose.

(k) A metropolitan school district shall, subject to section 7 of this chapter, be created on the thirtieth day after the date of the adoption of the confirming resolution under subsection (f) or an election held under subsection (h). If a public official fails to do the official's duty within the time prescribed in this section, the failure does not invalidate the proceedings taken under this section. An action to contest the validity of the creation of a metropolitan school district under this section or to enjoin the operation of a metropolitan school district may not be instituted later than the thirtieth day following the date of the adoption of the confirming resolution under subsection (f) or of the election held under subsection (h). Except as provided in this section, an election under this subsection may not be held sooner than

twelve (12) months after another election held under subsection (h).

(l) A metropolitan school district is known as "The Metropolitan School District of \_\_\_\_\_ Township, \_\_\_\_\_ County, Indiana". The first metropolitan board of education in a metropolitan school district created under this section consists of five (5) members. The township trustee and the township board members are ex officio members of the first board, subject to the laws concerning length of their respective terms of office, manner of election or appointment, and the filling of vacancies applicable to their respective offices. The ex officio members serve without compensation or reimbursement for expenses, other than that which they may receive from their respective offices. The township board shall, by a resolution recorded in its records, appoint the fifth member of the metropolitan board of education. The fifth member shall meet the qualifications of a member of a metropolitan board of education under this chapter, with the exception of the board member district requirements provided in sections 4, 5, and ~~8~~ **8.1** of this chapter.

(m) A fifth board member shall be appointed not more than fifteen (15) days after the date of the adoption of the confirming resolution under subsection (f)(2) or an election held under subsection (h). The first board shall hold its first meeting not more than fifteen (15) days after the date when the fifth board member is appointed or elected, on a date established by the township board in the resolution in which it appoints the fifth board member. The first board shall serve until ~~July~~ **January 1** following the election of a metropolitan school board at the first ~~primary~~ **general** election held more than sixty (60) days following the creation of the metropolitan school district.

(n) After the creation of a metropolitan school district under this section, the president of the metropolitan school board of the district shall serve as a member of the county board of education and perform the duties on the county board of education that were previously performed by the township trustee. The metropolitan school board and superintendent of the district may call upon the assistance of and use the services provided by the county superintendent of schools. This subsection does not limit or take away the powers, rights, privileges, or duties of the metropolitan school district or the board or superintendent of the district provided in this chapter.

SECTION 62. IC 20-23-8-7, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 7. (a) A plan or proposed plan must contain the following items:

(1) The number of members of the governing body, which shall be:

- (A) three (3);
- (B) five (5); or
- (C) seven (7);

members.

(2) Whether the governing board shall be elected or appointed.

(3) If appointed, when and by whom, and a general description of the manner of appointment that conforms with the requirements of IC 20-23-4-28.

~~(4) If elected, whether the election shall be at the primary~~

~~or at the general election that county officials are nominated or elected; and a general description of the manner of election that conforms with the requirements of IC 20-23-4-27.~~

**(4) A provision that the members of an elected governing board shall be elected at the general election at which county officials are elected.**

(5) The limitations on:

- (A) residence;
- (B) term of office; and
- (C) other qualifications;

required by members of the governing body.

(6) The time the plan takes effect.

A plan or proposed plan may have additional details to make the provisions of the plan workable. The details may include provisions relating to the commencement or length of terms of office of the members of the governing body taking office under the plan.

(b) Except as provided in subsection (a)(1), in a city having a population of more than fifty-nine thousand seven hundred (59,700) but less than sixty-five thousand (65,000), the governing body described in a plan may have up to nine (9) members.

SECTION 63. IC 20-23-8-21, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 21. An election may not be held under this chapter more than once each eighteen (18) months. A plan for a governing body may not be adopted more than once each six (6) years, except if **either of the following applies:**

~~(1) the plan only changes the time of voting for board members from the primary to the general election or from the general to the primary election;~~

~~(2) (1) A plan adopted is declared or held to be invalid by a binding judgment or order in a United States or an Indiana court that no appeal or further approval can be taken. or~~

~~(3) (2) The plan provides solely for changes in items specified in section 7(a)(5) of this chapter.~~

SECTION 64. IC 20-23-10-8, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 8. (a) The board members of a merged school corporation shall be elected at the first **primary general** election following the merged school corporation's creation, and vacancies shall be filled in accordance with IC 20-23-4-30.

(b) Until the first election under subsection (a), the board of trustees of the merged school corporation consists of:

- (1) the members of the governing body of a school corporation in the county other than a school township; and
- (2) the township trustee of a school township in the county.

(c) The first board of trustees shall select the name of the merged school corporation by a majority vote. The name may be changed by unanimous vote of the governing body of the merged school corporation.

SECTION 65. IC 20-23-12-3, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. (a) The governing

body of the school corporation consists of seven (7) members elected as follows:

- (1) On a nonpartisan basis.
- (2) In a **primary general** election held in the county.
- (b) Six (6) of the members shall be elected from the school districts drawn under section 4 of this chapter. Each member:
  - (1) is elected from the school district in which the member resides; and
  - (2) upon election and in conducting the business of the governing body, represents the interests of the entire school corporation.
- (c) One (1) of the members elected:
  - (1) is the at-large member of the governing body;
  - (2) may reside in any of the districts drawn under section 4 of this chapter; and
  - (3) upon election and in conducting the business of the governing body, represents the interests of the entire school corporation.

SECTION 66. IC 20-23-12-8, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 8. (a) The term of each person elected to serve on the governing body

- (1) is four (4) years. ~~and~~
- (2) begins

(b) **The term of each person elected to serve on the governing body begins the July 1 that next follows the person's election.**

SECTION 67. IC 20-23-12-9, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 9. The members are elected as follows:

- (1) Three (3) of the members elected under section 3(b) of this chapter are elected at the **primary general** election to be held in ~~2008~~ **2012** and every four (4) years thereafter.
- (2) Three (3) of the members elected under section 3(b) of this chapter are elected at the **primary general** election to be held in ~~2006~~ **2010** and every four (4) years thereafter.
- (3) The at-large member elected under section 3(c) of this chapter is elected at the **primary general** election to be held in ~~2008~~ **2012** and every four (4) years thereafter.

SECTION 68. IC 20-23-13-1, AS ADDED BY P.L.230-2005, SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. (a) In a community school corporation established under IC 20-23-4 that:

- (1) has a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000); and
- (2) is the successor in interest to a school city having the same population;

the governing body consists of a board of trustees of five (5) members elected in the manner provided in this chapter.

(b) ~~At the 2008 primary election and at each primary election every four (4) years thereafter, there shall be elected in each school corporation covered by this chapter two (2) governing body members, each of whom shall serve for four (4) years. The two (2) candidates for the office of school trustee receiving the highest number of votes at the election take office on July 1 next following the election.~~

~~(c) At the 2006 primary election and at each primary election every four (4) years thereafter, there shall be elected in each school city covered by this chapter three (3) governing body members, each of whom shall serve for four (4) years. The three (3) candidates for the office of school trustee receiving the highest number of votes at the election take office on July 1 next following the election.~~

~~(d) (b) The governing body members shall be elected at the times provided and shall succeed the retiring members in the order and manner as set forth in this section.~~ **chapter.**

SECTION 69. IC 20-23-13-2.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2.1. (a) **As used in this section, "county election board" includes a board of elections and registration established by IC 3-6-5.2.**

(b) **The voters of the school city shall elect the members of the governing body at a general election for a term of four (4) years. The members shall be elected from the city at large without reference to district.**

(c) **Each candidate for election to the governing body must file a petition of nomination with the county election board in each county in which a school city subject to this chapter is located. The petition of nomination must comply with IC 3-8-2.5 and the following requirements:**

- (1) **The petition must be signed by at least two hundred (200) legal voters of the school city.**
- (2) **Each petition may nominate only one (1) candidate.**
- (3) **The number of petitions signed by a legal voter may not exceed the number of school trustees to be elected.**

(d) **After all the petitions described in subsection (c) are filed with the county election board, the board shall publish the names of those nominated in accordance with IC 5-3-1 and shall certify the nominations in the manner required by law. IC 3 governs the election to the extent that it is not inconsistent with this chapter.**

(e) **The county election board shall prepare the ballot for the general election at which members of the governing body are to be elected so that the names of the candidates nominated appear on the ballot:**

- (1) **in alphabetical order;**
- (2) **without party designation; and**
- (3) **in the form prescribed by IC 3-11-2.**

(f) **The county election board shall not publish or place on the ballot the name of a candidate who is not eligible under this chapter for membership on the governing body.**

(g) **Each voter may vote for as many candidates as there are members of the governing body to be elected.**

SECTION 70. IC 20-23-13-3, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. The intent of this chapter is to provide that the governing body of the school corporations to which it relates shall be elected as provided in:

- (1) ~~IC 20-23-4-27; and IC 20-23-4-29 through~~
- (2) **IC 20-23-4-29.1;**
- (3) **IC 20-23-4-30; and**
- (4) **IC 20-23-4-31;**

but this chapter prevails over any conflicting provisions of IC 20-23-4 relating to any school corporation.

SECTION 71. IC 20-23-14-5, AS ADDED BY P.L.230-2005, SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. To be eligible to be a candidate for the governing body under this chapter, the following apply:

(1) Each prospective candidate must file a **petition of nomination** with the board of elections and registration not earlier than one hundred four (104) days and not later than noon seventy-four (74) days before the **primary general** election at which the members are to be elected. ~~that includes~~ **The petition of nomination must include** the following: ~~information:~~

- (A) The name of the prospective candidate.
  - (B) Whether the prospective candidate is a district candidate or an at-large candidate.
  - (C) A certification that the prospective candidate meets the qualifications for candidacy imposed under this chapter.
  - (D) The signatures of at least one hundred (100) registered voters residing in the school corporation.
- (2) Each prospective candidate for a district position must:
- (A) reside in the district; and
  - (B) have resided in the district for at least the three (3) years immediately preceding the election.
- (3) Each prospective candidate for an at-large position must:
- (A) reside in the school corporation; and
  - (B) have resided in the school corporation for at least the three (3) years immediately preceding the election.
- (4) Each prospective candidate (regardless of whether the candidate is a district candidate or an at-large candidate) must:
- (A) be a registered voter;
  - (B) have been a registered voter for at least the three (3) years immediately preceding the election; and
  - (C) be a high school graduate or have received a:
    - (i) high school equivalency certificate; or
    - (ii) state general educational development (GED) diploma under IC 20-20-6.
- (5) A prospective candidate may not:
- (A) hold any other elective or appointive office; or
  - (B) have a pecuniary interest in any contract with the school corporation or its governing body;
- as prohibited by law.

SECTION 72. IC 20-23-14-8, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 8. (a) The term of each person elected to serve on the governing body

- (1) is four (4) years. and
- (2) begins

(b) **The term of each person elected to serve on the governing body begins on the July 1 of January 1** that next follows the person's election.

SECTION 73. IC 20-23-14-9, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 9. The members are elected as follows:

(1) Three (3) of the members are elected at the **primary general** election to be held in ~~2008~~ **2012** and every four (4) years thereafter.

(2) Two (2) of the members are elected at the **primary general** election to be held in ~~2006~~ **2010** and every four (4) years thereafter.

SECTION 74. IC 20-25-3-4, AS AMENDED BY P.L.1-2006, SECTION 322, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. (a) The board consists of seven (7) members. A member:

(1) must be elected on a nonpartisan basis in **primary general** elections held in the county as specified in this section; and

(2) serves a four (4) year term.

(b) Five (5) members shall be elected from the school board districts in which the members reside, and two (2) members must be elected at large. Not more than two (2) of the members who serve on the board may reside in the same school board district.

(c) If a candidate runs for one (1) of the district positions on the board, only eligible voters residing in the candidate's district may vote for that candidate. If a person is a candidate for one (1) of the at-large positions, eligible voters from all the districts may vote for that candidate.

(d) If a candidate files to run for a position on the board, the candidate must specify whether the candidate is running for a district or an at-large position.

(e) A candidate who runs for a district or an at-large position wins if the candidate receives the greatest number of votes of all the candidates for the position.

(f) Districts shall be established within the school city by the state board. The districts must be drawn on the basis of precinct lines, and as nearly as practicable, of equal population with the population of the largest district not to exceed the population of the smallest district by more than five percent (5%). District lines must not cross precinct lines. The state board shall establish:

- (1) balloting procedures for the election under IC 3; and
- (2) other procedures required to implement this section.

(g) A member of the board serves under section 3 of this chapter.

(h) In accordance with subsection (k), a vacancy in the board shall be filled temporarily by the board as soon as practicable after the vacancy occurs. The member chosen by the board to fill a vacancy holds office until the member's successor is elected and qualified. The successor shall be elected at the next regular school board election occurring after the date on which the vacancy occurs. The successor fills the vacancy for the remainder of the term.

(i) An individual elected to serve on the board begins the individual's term on ~~July 1 of the year of~~ **January 1 immediately following** the individual's election.

(j) Notwithstanding any law to the contrary, each voter must cast a vote for a school board candidate or school board candidates by voting system or paper ballot. However, the same method used to cast votes for all other offices for which candidates have qualified to be on the election ballot must be used for the board offices.

(k) If a vacancy in the board exists because of the death of a member, the remaining members of the board shall meet and

select an individual to fill the vacancy in accordance with subsection (h) after the secretary of the board receives notice of the death under IC 5-8-6.

SECTION 75. IC 33-33-53-5, AS AMENDED BY P.L.2-2006, SECTION 183, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. In accordance with rules adopted by the judges of the court under section 6 of this chapter, the presiding judge shall do the following:

- (1) Ensure that the court operates efficiently and judicially under rules adopted by the court.
- (2) Annually submit to the fiscal body of Monroe County a budget for the court, including amounts necessary for:
  - (A) the operation of the circuit's probation department;
  - (B) the defense of indigents; and
  - (C) maintaining an adequate law library.
- (3) Make the appointments or selections required of a circuit or superior court judge under the following statutes:
  - IC 8-4-21-2
  - IC 11-12-2-2
  - IC 16-22-2-4
  - IC 16-22-2-11
  - IC 16-22-7
  - IC 20-23-4
  - IC 20-23-7-6
  - ~~IC 20-23-7-8~~ **IC 20-23-7-8.1**
  - IC 20-26-7-8
  - IC 20-26-7-14
  - IC 20-47-2-15
  - IC 20-47-3-13
  - IC 36-9
  - IC 36-10
  - IC 36-12-10-10.

- (4) Make appointments or selections required of a circuit or superior court judge by any other statute, if the appointment or selection is not required of the court because of an action before the court.

SECTION 76. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 3-11-18-2; IC 3-11-18-18; IC 3-11-18-19; IC 3-11-18-20.

SECTION 77. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2009]: IC 3-8-2-2.2; IC 20-23-4-29; IC 20-23-7-8; IC 20-23-13-2.

SECTION 78. [EFFECTIVE JULY 1, 2008] **A county designated as a vote center pilot county under:**

- (1) **P.L.164-2006, SECTION 148 (before its expiration); or**
- (2) **SECTION 79 of this act;**

**is automatically redesignated as a vote center county under IC 3-11-18, as amended by this act, on July 1, 2008.**

SECTION 79. [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] (a) **The definitions set forth in IC 3-5-2 apply throughout this SECTION.**

(b) **The secretary of state may designate one (1) county as a vote center pilot county under IC 3-11-18.**

(c) **A county must file with the secretary of state an application to be designated a vote center pilot county under IC 3-11-18 not later than March 1, 2008.**

(d) **The secretary of state shall act in accordance with IC 3-11-18 and this SECTION to designate a county as a vote center pilot county not later than March 15, 2008.**

(e) **The designation of a county as a vote center pilot county under this SECTION is effective June 1, 2008.**

(f) **This SECTION expires July 1, 2008.**

SECTION 80. [EFFECTIVE JANUARY 1, 2009] (a) **As used in this SECTION, "governing body" refers to the governing body of a school corporation subject to any of the following:**

- (1) **IC 20-23-4-30.**
- (2) **IC 20-23-7-8 (before its repeal) and IC 20-23-7-8.1, as added by this act.**
- (3) **IC 20-23-8-8.**
- (4) **IC 20-23-10-8.**
- (5) **IC 20-23-12.**
- (6) **IC 20-23-13.**
- (7) **IC 20-23-14.**
- (8) **IC 20-25-3-4.**

(b) **This subsection applies to a member of a governing body elected at the 2006 primary election. The successor of such a member shall:**

- (1) **be elected at the 2010 general election; and**
- (2) **take office January 1, 2011.**

(c) **This subsection applies to a member of a governing body elected at the 2008 primary election. The successor of such a member shall:**

- (1) **be elected at the 2012 general election; and**
- (2) **take office January 1, 2013.**

(d) **This SECTION expires July 1, 2013."**

Delete page 32.

Page 33, delete lines 1 through 29.

Renumber all SECTIONS consecutively.

(Reference is to HB 1196 as reprinted January 30, 2008.)

and when so amended that said bill do pass.

Committee Vote: Yeas 5, Nays 2.

LAWSON, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Engrossed House Bill 1140, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, line 17, after "." insert **"The term does not include a dental or vision plan."**

Page 2, line 4, delete "a licensed orthotist or prosthetist or a" and insert **"an orthotist, a prosthetist, or a pedorthist certified by:**

- (A) **the American Board for Certification in Orthotics, Prosthetics and Pedorthics, or its successor; or**
- (B) **the Board for Orthotist or Prosthetist Certification, or its successor; "**

Page 2, delete line 5.

Page 2, line 10, after "(3)" insert **"is"**.

Page 2, line 14, after "unless" insert **"":**

(1)".

Page 2, line 14, delete "." and insert "; or

(2) a different reimbursement rate is negotiated."

Page 2, line 15, delete "The" and insert "Except as provided in subsection (h), the".

Page 2, delete lines 20 through 29, begin a new paragraph and insert:

"(h) The coverage required under subsection (e) may be subject to utilization review, including periodic review, of the continued medical necessity of the benefit."

Page 3, line 21, delete "a licensed orthotist or prosthetist or a" and insert "an orthotist, a prosthetist, or a pedorthist certified by:

(A) the American Board for Certification in Orthotics, Prosthetics and Pedorthics, or its successor; or

(B) the Board for Orthotist or Prosthetist Certification, or its successor; "

Page 3, delete line 22.

Page 3, line 27, after "(3)" insert "is".

Page 3, line 31, after "unless" insert ":

(1)".

Page 3, line 31, delete "." and insert "; or

(2) a different reimbursement rate is negotiated."

Page 3, line 32, delete "The" and insert "Except as provided in section 8 of this chapter, the".

Page 3, delete lines 37 through 42, begin a new paragraph and insert:

"Sec. 8. The coverage required under section 5 of this chapter may be subject to utilization review, including periodic review, of the continued medical necessity of the benefit."

Page 4, delete lines 1 through 4.

Page 4, line 12, after "group contract" insert "that provides coverage for basic health care services".

Page 4, line 16, delete "a licensed orthotist or prosthetist or a" and insert "an orthotist, a prosthetist, or a pedorthist certified by:

(A) the American Board for Certification in Orthotics, Prosthetics and Pedorthics, or its successor; or

(B) the Board for Orthotist or Prosthetist Certification, or its successor; "

Page 4, delete line 17.

Page 4, line 22, after "(3)" insert "is".

Page 4, line 26, after "unless" insert ":

(1)".

Page 4, line 26, delete "." and insert "; or

(2) a different reimbursement rate is negotiated."

Page 4, line 27, delete "The" and insert "Except as provided in subsection (f), the".

Page 4, delete lines 32 through 41, begin a new paragraph and insert:

"(f) The coverage required under subsection (c) may be subject to utilization review, including periodic review, of the continued medical necessity of the benefit."

(Reference is to HB 1140 as printed January 25, 2008.)

and when so amended that said bill do pass.

Committee Vote: Yeas 9, Nays 0.

MILLER, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred Engrossed House Bill 1210, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 7, Nays 0.

LUBBERS, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Local Government and Elections, to which was referred Engrossed House Bill 1108, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 6, Nays 2.

LAWSON, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Local Government and Elections, to which was referred Engrossed House Bill 1286, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 6, Nays 0.

LAWSON, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Commerce, Public Policy and Interstate Cooperation, to which was referred Engrossed House Bill 1169, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-41-1-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4. The state department may adopt rules concerning:**

(1) sanitation requirements;

(2) requirements for education on sanitation; and

(3) any other health concerns;

**associated with threading (as defined in IC 25-8-2-19).**

Page 1, delete lines 10 through 17.

Delete page 2.

Page 3, delete lines 1 through 11, begin a new paragraph and insert:



"SECTION 3. IC 25-8-2-5, AS AMENDED BY P.L.157-2006, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) "Cosmetology" means performing any of the following acts on the head, face, neck, shoulders, torso, arms, hands, legs, or feet of a person:

- (1) Cutting, trimming, styling, arranging, dressing, curling, waving, permanent waving, cleansing, bleaching, tinting, coloring, or similarly treating hair.
- (2) Applying oils, creams, antiseptics, clays, lotions, or other preparations to massage, cleanse, stimulate, manipulate, exercise, or beautify.
- (3) Arching eyebrows.
- (4) Using depilatories.
- (5) Manicuring and pedicuring.

(b) "Cosmetology" does not include performing any of the acts described in subsection (a):

- (1) in treating illness or disease;
- (2) as a student in a cosmetology school that complies with the notice requirements set forth in IC 25-8-5-6;
- (3) in performing shampooing operations; or
- (4) without compensation.

(c) "Cosmetology" does not include performing the act of threading.

SECTION 4. IC 25-8-2-9.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9.5. (a) "Esthetician" means a person who engages solely in one (1) or more of the following practices:

- (1) Giving facials, applying makeup, and giving skin care.
- (2) Beautifying, massaging, or cleaning the body with the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.
- (3) Removing superfluous hair from the body by the use of depilatories, waxing, or tweezers.

(b) The term does not include performing any of the acts described in subsection (a):

- (1) in treating an illness or a disease;
- (2) as a student in a cosmetology school that complies with the notice requirements under IC 25-8-5-6;
- (3) without compensation; or
- (4) incident to the retail sale of cosmetics.

(c) The term does not include a person who:

- (1) engages in threading; and
- (2) does not engage in one (1) or more of the practices described in subsection (a)."

Page 3, delete lines 19 through 42.

Page 4, delete lines 1 through 13.

Page 4, delete lines 34 through 35, begin a new paragraph and insert:

"SECTION 7. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 25-8-2-3.5; IC 25-8-2-5.5."

Renumber all SECTIONS consecutively.

(Reference is to HB 1169 as printed January 25, 2008.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

RIEGSECKER, Chair

Report adopted.

## COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Engrossed House Bill 1055, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 3, delete lines 7 through 11, begin a new paragraph and insert:

**"Sec. 6. (a) An insurer that does not comply with this chapter shall pay interest for each day of noncompliance at the same interest rate as provided in IC 12-15-21-3(7)(A).**

**(b) IC 27-8-5.7 applies to payment of a claim submitted to an insurer by a provider in compliance with this chapter."**

Page 4, delete lines 16 through 20.

Page 4, line 21, delete "a provider", begin a new paragraph and insert:

**"Sec. 11. (a) A provider"**

Page 4, between lines 27 and 28, begin a new paragraph and insert:

**"(b) A disclosure required by subsection (a) must be:**

- (1) made in writing; and**
- (2) if included in a document containing other terms of consent for treatment, displayed conspicuously.**

**(c) A disclosure is not required under subsection (a) if any of the following apply:**

- (1) The patient is unconscious, incoherent, or incompetent.**

- (2) The patient:**

**(A) arrives at a hospital required to provide emergency medical screening or care under 42 U.S.C. 1395dd; and**

**(B) seeks emergency medical screening or care.**

- (3) The provider does not know and could not reasonably know that the patient is covered under a policy issued by an insurer with which the provider has not entered into an agreement for the delivery of health care services.**

- (4) The provider has been requested to render health care services to the covered individual after the covered individual has been admitted for inpatient or outpatient services and the provider's services were not part of the original treatment plan."**

Page 5, delete lines 20 through 26, begin a new paragraph and insert:

**"Sec. 3. (a) A health maintenance organization that does not comply with this chapter shall pay interest for each day of noncompliance at the same interest rate as provided in IC 12-15-21-3(7)(A).**

**(b) IC 27-13-36.2 applies to payment of a claim submitted to a health maintenance organization by a nonparticipating in compliance with this chapter."**

Page 6, delete lines 25 through 29, begin a new paragraph and insert:

**"Sec. 8. (a) A"**

Page 6, after line 35, begin a new paragraph and insert:

**"(b) A disclosure required by subsection (a) must be:**

- (1) made in writing; and**
- (2) if included in a document containing other terms of**

consent for treatment, displayed conspicuously.

(c) A disclosure is not required under subsection (a) if any of the following apply:

(1) The patient is unconscious, incoherent, or incompetent.

(2) The patient:

(A) arrives at a hospital required to provide emergency medical screening or care under 42 U.S.C. 1395dd; and

(B) seeks emergency medical screening or care.

(3) The provider does not know and could not reasonably know that the patient is covered under an individual or group contract entered into by a health maintenance organization for which the provider is not a participating provider.

(4) The provider has been requested to render health care services to the enrollee after the enrollee has been admitted for inpatient or outpatient services and the provider's services were not part of the original treatment plan."

(Reference is to HB 1055 as reprinted January 29, 2008.) and when so amended that said bill do pass.

Committee Vote: Yeas 11, Nays 0.

MILLER, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Commerce, Public Policy and Interstate Cooperation, to which was referred Engrossed House Bill 1341, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 7, Nays 2.

RIEGSECKER, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Engrossed House Bill 1276, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, line 11, after "a" insert ":

(1)".

Page 1, line 11, after "defendant" insert ";

(2) **person charged with child molesting (IC 35-42-4-3); or**

(3) **person charged with child solicitation (IC 35-42-4-6);**".

Page 1, line 12, block left beginning with "to".

Page 1, line 15, delete "sexually violent predator defendant" and insert "**person**".

Page 1, line 15, after "arrested" insert ", **unless exigent circumstances prevent holding the hearing within forty-eight (48) hours**".

(Reference is to HB 1276 as printed January 25, 2008.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

BRAY, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Engrossed House Bill 1052, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-13-2-49.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 49.7. "Entrapment" means a confining circumstance from which escape or relief is difficult or impossible.**

SECTION 2. IC 9-24-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) Except as provided in subsection (c), an examination for a learner's permit must consist of a test of the applicant's eyesight **and knowledge of IC 9-26-1-1.5**. All other examinations must include the following:

(1) A test of the following of the applicant:

(A) Eyesight.

(B) Ability to read and understand highway signs regulating, warning, and directing traffic.

(C) Knowledge of Indiana traffic laws, **including IC 9-26-1-1.5**.

(2) An actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle under the type of permit or license applied for.

(b) The examination may include further physical and mental examination that the bureau finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon Indiana highways. The applicant must provide the motor vehicle used in the examination.

(c) The bureau shall waive the actual demonstration required under subsection (a)(2) for a person who has passed a driver's education class and a road test given by a commercial driver training school or a high school driver education program.

(d) The bureau shall adopt rules under IC 4-22-2 specifying requirements for a road test given under subsection (c) by a commercial driver training school or a high school driver education program."

Page 2, line 31, delete "least" and insert "**least:** (i)".

Page 2, line 31, delete "and six (6) months of age; and" and insert "**of age and holds a learner's permit issued under IC 9-24-7-1 or a driver's license issued under IC 9-24-11; or (ii) eighteen (18) years of age; and**".

Page 3, line 3, delete "least" and insert "**least:** (i)".

Page 3, line 3, delete "and six (6) months of age; and" and insert "**of age and holds a learner's permit issued under IC 9-24-7-1 or a driver's license issued under IC 9-24-11; or**

(ii) eighteen (18) years of age; and".

Page 4, line 20, delete "1(2)(C)".

Renumber all SECTIONS consecutively.

(Reference is to HB 1052 as printed January 16, 2008.)

and when so amended that said bill do pass.

Committee Vote: Yeas 7, Nays 0.

STEELE, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred Engrossed House Bill 1185, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 3, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 7. IC 16-41-37.5-0.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 0.3. As used in this chapter, "nonpublic school" has the meaning set forth in IC 20-18-2-12.**

SECTION 8. IC 16-41-37.5-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 0.5. As used in this chapter, "public school" has the meaning set forth in IC 20-18-2-15(1).**"

Page 3, line 16, delete "IC 4-13-1-1." and insert "IC 4-13-1-1(b)."

Page 5, line 6, delete "mechanical engineer;" and insert "professional engineer (as defined in IC 25-31-1-2);".

Renumber all SECTIONS consecutively.

(Reference is to HB 1185 as printed January 18, 2008.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

GARD, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred Engrossed House Bill 1280, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT concerning state and local administration.

Delete everything after the enacting clause and insert the following:

SECTION 1. [EFFECTIVE UPON PASSAGE] (a) **The environmental quality service council established by IC 13-13-7-1 shall study and make findings and recommendations concerning the following:**

(1) **Whether state law should:**

(A) **require; or**

(B) **encourage through incentives;**

**the construction and renovation of public buildings and**

**structures with the goal of achieving particular energy and environmental design ratings.**

(2) **If the findings under subdivision (1) are in the affirmative:**

(A) **which energy and environmental design ratings systems should be used;**

(B) **which public buildings and structures should be covered;**

(C) **whether a price preference should apply for purchases of equipment that is compliant with particular energy ratings;**

(D) **if a price preference referred to in clause (C) applies:**

(i) **the appropriate percentage of the price preference; and**

(ii) **whether current law adequately takes into account a price preference in the determination of the successful bid for sale of the equipment;**

(E) **whether the energy and environmental design ratings to be used should take into account the use of certified or noncertified wood from Indiana;**

(F) **if the findings under clause (E) are in the affirmative, which organization's wood certification standards should be used;**

(G) **estimates of the extent of realistic projected energy savings;**

(H) **estimates of the period over which additional construction costs are offset by energy cost savings; and**

(I) **any other issues the council considers appropriate.**

(b) **The environmental quality service council shall include its findings and recommendations developed under subsection (a) in the council's 2008 final report to the legislative council.**

(c) **This SECTION expires January 1, 2009.**

SECTION 2. **An emergency is declared for this act.**

(Reference is to HB 1280 as printed January 25, 2008.)

and when so amended that said bill do pass.

Committee Vote: Yeas 7, Nays 1.

GARD, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Engrossed House Bill 1124, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 7, Nays 0.

KRUSE, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Engrossed House Bill 1061, has had the same under consideration and begs leave to report the same back to the

Senate with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 18.

Page 3, delete lines 30 through 42.

Delete page 4.

Renumber all SECTIONS consecutively.

(Reference is to HB 1061 as reprinted January 29, 2008.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

BRAY, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Engrossed House Bill 1119, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 36-8-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The police chief or fire chief may be granted a leave of absence by the authority who appointed ~~him~~ **the police chief or fire chief**. This appointing authority may also grant a leave of absence to any other full-time, fully paid police officer or firefighter.

(b) A leave of absence under subsection (a) shall be granted for service in the Indiana general assembly. ~~and A leave of absence under subsection (a)~~ **may also be granted only for service in any other elected office or** for one (1) of the following reasons:

- (1) Sickness.
- (2) Disability.
- (3) Sabbatical purposes.

However, a leave of absence because of disability may not be granted to a member of the 1977 fund under this subsection unless a leave granted under subsection (g) has expired without disability benefits having been paid from the 1977 fund. In the case of such an expiration, a leave for purposes of disability may be granted under this subsection but only until the member's eligibility for disability benefits is finally determined.

(c) Before a leave of absence may be granted for sabbatical purposes, the member must submit a written request explaining and justifying the leave to the appointing authority. Sabbatical purposes must be related to the improvement of the member's professional performance and skills, such as education, special training, work related experience, and exchange programs.

(d) This subsection applies to leaves of absence granted under subsection (b)(1), (b)(2), or (b)(3). A leave of absence may extend for a period of not more than one (1) year, determined by the appointing authority, and may be renewed upon written request of the member.

(e) This subsection applies to leaves of absence granted for service in ~~the Indiana general assembly~~. **If an elected office**. A police officer or firefighter **who** serves in the general assembly ~~he~~ shall be granted a leave for the time spent in this service, including the time spent for committee or legislative council

meetings. **A police officer or firefighter who serves in any other elected office may be granted a leave for the time spent in this service. Leave for service in an elected office does not diminish a police officer's or firefighter's rights under the police officer's or firefighter's retirement or pension fund, except as provided in section 10 of this chapter, or advancement on the police officer's or firefighter's department salary schedule. For these purposes, the police officer or firefighter is, despite the leave, considered to be a member of the department during that time.**

(f) This subsection applies to leaves of absence granted under subsection (b)(1), (b)(2), or (b)(3). A member on leave may receive compensation in an amount determined by the appointing authority, up to a maximum amount that equals ~~his~~ **the member's** salary before the leave began.

(g) This subsection applies only to members of the 1977 fund. The local board may grant a leave of absence for purposes of disability to full-time, fully paid police officers or firefighters (including the police chief or fire chief). The leave is subject to the following conditions:

- (1) The police chief or fire chief must make a written determination that there is no suitable and available work on the appropriate department for which the fund member is or may be capable of becoming qualified.
- (2) The leave must be approved by the local board after a hearing conducted under IC 36-8-8-12.7.
- (3) The leave may not begin until the police officer or firefighter has exhausted all paid leave for sickness.
- (4) The leave shall continue until disability benefits are paid from the 1977 fund. However, the leave may not continue for more than six (6) months.
- (5) During the leave, the police officer or firefighter is entitled to receive compensation in an amount equal to fifty percent (50%) of the salary of a first class patrolman or first class firefighter on the date the leave begins.

Payments of compensation under this subsection may not be made from the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund.

(h) Determinations under subsection (g) are not reviewable by the board of trustees of the public employees' retirement fund.

SECTION 2. IC 36-8-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) Except as provided in subsection (b) **or (c)**, a member on leave under either section 2 or section 3 of this chapter is entitled to be credited with time spent in full-time employment for all purposes, including retirement and pension benefits.

(b) A member of the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund who is granted an unpaid leave of absence under the Family Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) shall be credited with time spent on leave for the purposes of benefit eligibility and vesting to the extent required by the Family Medical Leave Act. The member shall not receive credit for purposes of accruing additional benefits, except to the extent required by the Family Medical Leave Act.

**(c) This subsection applies to a member of the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund who is granted a leave of absence for service in an elected office under section 2 of this chapter. In order to receive service credit in**

**the 1925 fund, the 1937 fund, the 1953 fund, or the 1977 fund for the period of the leave of absence, the member must pay to the applicable fund for or during the leave the assessment or contribution that the member would have paid during the period of the leave had the member not been on the leave during that time. The member's employer may pay all or a part of the assessment or contribution for the member."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1119 as printed January 25, 2008.)

and when so amended that said bill do pass.

Committee Vote: Yeas 6, Nays 0.

KRUSE, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Engrossed House Bill 1290, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 11.

Page 2, line 22, delete "IC 31-28-5," and insert **"IC 31-28-5.7,"**.

Page 2, between lines 33 and 34, begin a new paragraph and insert:

"SECTION 3. IC 31-9-2-40, AS AMENDED BY P.L.145-2006, SECTION 190, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 40. "Director", for purposes of IC 31-25-1, IC 31-25-2, **IC 31-28-6**, IC 31-33, IC 31-34, and IC 31-37, refers to the director of the department of child services."

Page 2, line 38, delete "IC 31-28-5" and insert **"IC 31-28-5.7"**.

Page 3, line 2, delete "; or" and insert **"who satisfies the conditions set forth in subsection (b);"**.

Page 3, line 4, delete "receiving foster care for" and insert **"placed in foster care under the order of a court who satisfies the conditions set forth in subsection (b); or**

**(3) an individual at least eighteen (18) but less than twenty-one (21) years of age who is receiving foster care for older youth and who is no longer under the care and supervision of the juvenile court for purposes of placement."**

Page 3, delete line 5.

Page 3, line 6, strike "who".

Page 3, line 6, delete "satisfies the conditions set forth in subsection (b)."

Page 3, line 33, delete "IC 31-28-5-1;" and insert **"IC 31-28-5.7-1;"**.

Page 4, line 5, delete "IC 31-28-5-1;" and insert **"IC 31-28-5.7-1;"**.

Page 4, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 6. IC 31-9-2-130.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 130.3. "Transitional services plan", for purposes of IC 31-25-2-21, has the meaning set forth in IC 31-25-2-21(a).**

SECTION 7. IC 31-25-2-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 21. (a) As used in this section, "transitional services plan" means a plan that provides information concerning the following to an individual described in subsection (b):**

**(1) Education.**

**(2) Employment.**

**(3) Housing.**

**(4) Health care.**

**(5) Development of problem solving skills.**

**(6) Available local, state, and federal financial assistance.**

**(b) The department shall implement a program that provides a transitional services plan to the following individuals:**

**(1) An individual who has become or will become:**

**(A) eighteen (18) years of age; or**

**(B) emancipated;**

**while receiving foster care.**

**(2) An individual who:**

**(A) is at least eighteen (18) but less than twenty-one (21) years of age; and**

**(B) is receiving foster care for older youth under IC 31-28-5.7.**

**(c) The department shall adopt rules under IC 4-22-2 necessary to implement the program described in this section.**

SECTION 8. IC 31-27-4-2, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) A person may not operate a therapeutic foster family home without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a therapeutic foster family home without a license issued under this article.

(c) The department may issue a license only for a therapeutic foster family home that meets:

(1) all the licensing requirements of a foster family home; and

(2) the additional requirements described in this section.

(d) An applicant for a therapeutic foster family home license must do the following:

(1) Be licensed as a foster parent under 465 IAC 2-1-1 et seq.

(2) Participate in preservice training that includes:

(A) preservice training to be licensed as a foster parent under 465 IAC 2-1-1 et seq.; and

(B) additional preservice training in therapeutic foster care.

(e) A person who is issued a license to operate a therapeutic foster family home shall, within one (1) year after meeting the training requirements of subsection (d)(2) and, annually thereafter, participate in training that includes:

(1) training as required in order to be licensed as a foster parent under 465 IAC 2-1-1 et seq.; and

(2) additional training in order to be licensed as a therapeutic foster parent under this chapter.

(f) An operator of a therapeutic foster family home may not provide supervision and care in a therapeutic foster family home to more than two (2) foster children at the same time, not including the children for whom the applicant or operator is a parent, stepparent, guardian, custodian, or other relative. The department may grant an exception to this subsection whenever the placement of siblings in the same therapeutic foster family home is desirable or in the best interests of the foster children residing in the home.

(g) **A therapeutic foster family home may provide care for an individual receiving foster care for older youth under IC 31-28-5.7-1 if the individual is no longer under the care and supervision of a juvenile court.**

(h) The department shall adopt rules under IC 4-22-2 necessary to carry out this section, including rules governing the number of hours of training required under subsections (d) and (e)."

Page 5, line 13, delete "IC 31-28-5" and insert "**IC 31-28-5.7**".

Page 5, line 24, after "(i)" insert "**A special needs foster family home may provide care for an individual receiving foster care for older youth under IC 31-28-5.7-1 if the individual is no longer under the care and supervision of a juvenile court.**

(j)".

Page 6, line 3, delete "IC 31-28-5" and insert "**IC 31-28-5.7**".

Page 6, line 6, delete "IC 31-28-5" and insert "IC 31-28-5.7".

Page 6, line 9, delete "5." and insert "**5.7**".

Page 6, line 13, after "care" insert "**under a court order**".

Page 6, line 13, delete "when" and insert "**the month before**".

Page 6, line 13, delete "was less than" and insert "**became**".

Page 6, line 15, delete "choose" and insert "**petition a court**".

Page 6, line 16, delete "age" and insert "**age. A court shall grant the petition**".

Page 6, line 16, delete "working or" and insert "**employed**".

Page 6, line 17, delete "is".

Page 6, line 17, delete "program." and insert "**certification or degree program, or is planning on attending a vocational or educational certification or degree program within six (6) months of the individual's eighteenth birthday**".

Page 6, after line 21, begin a new paragraph and insert:

"SECTION 14. IC 31-28-6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

#### **Chapter 6. Interstate Compact for the Placement of Children**

**Sec. 1. Subject to IC 31-28-4-1.5, the interstate compact for the placement of children is enacted into law under this chapter and entered into with all other jurisdictions legally joining the compact in a form consistent with the compact terms and provisions as stated in this section in a form substantially as follows:**

##### **ARTICLE 1. PURPOSE**

**The purpose of this interstate compact for the placement of children is to:**

- (1) Provide a process through which children subject to this compact are placed in safe and suitable homes in a timely manner.**

- (2) Facilitate ongoing supervision of a placement, the delivery of services, and communication between the states.**

- (3) Provide operating procedures that will ensure that children are placed in safe and suitable homes in a timely manner.**

- (4) Provide for the adoption and enforcement of administrative rules implementing the provisions of this compact and regulating the covered activities of the member states.**

- (5) Provide for uniform data collection and information sharing between member states under this compact.**

- (6) Promote coordination between this compact, the Interstate Compact for Juveniles, the Interstate Compact on Adoption and Medical Assistance, and other compacts that affect the placement of and that provide services to children otherwise subject to this compact.**

- (7) Provide for a state's continuing legal jurisdiction and responsibility for placement and care of a child that it would have had if the placement were intrastate.**

- (8) Provide for the promulgation of guidelines, in collaboration with Indian tribes, for interstate cases involving Indian children as is or may be permitted by federal law.**

#### **ARTICLE II. DEFINITIONS**

**As used in this compact:**

- (1) "Approved placement" means the public child placing agency in the receiving state has determined that the placement is both safe and suitable for the child.**

- (2) "Assessment" means an evaluation of a prospective placement by a public child placing agency to determine whether the placement meets the individualized needs of the child, including the child's safety and stability, health and well-being, and mental, emotional, and physical development. An assessment is applicable only to a placement by a public child placing agency.**

- (3) "Certification" means to attest, declare, or swear to before a judge or notary public.**

- (4) "Child" means an individual who is less than eighteen (18) years of age.**

- (5) "Default" means the failure of a member state to perform the obligations or responsibilities imposed upon it by this compact or by the bylaws or rules of the interstate commission.**

- (6) "Home study" means an evaluation of a home environment that is conducted in accordance with the applicable requirements of the state in which the home is located and that documents the preparation and the suitability of the placement resource for placement of a child in accordance with the laws and requirements of the state in which the home is located.**

- (7) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaskan native village as defined in section 3(c) of the Alaska Native Claims settlement Act, 43 U.S.C. 1602(c).**

(8) "Interstate commission for the placement of children" means the commission that is created under Article VIII of this compact and that is generally referred to as "the interstate commission".

(9) "Jurisdiction" means the power and authority of a court to hear and decide matters.

(10) "Legal risk adoption" means a placement made preliminary to an adoption in which the prospective adoptive parents acknowledge in writing that a child can be ordered returned to the sending state or the birth mother's state of residence, if different from the sending state, and a final decree of adoption shall not be entered in any jurisdiction until all required consents are obtained or are dispensed with in accordance with applicable law.

(11) "Legal risk placement" means legal risk adoption.

(12) "Member state" means a state that has enacted this compact.

(13) "Noncustodial parent" means a person who, at the time of the commencement of court proceedings in the sending state, does not have sole legal custody of the child or has joint legal custody of a child, and who is not the subject of allegations or findings of child abuse or neglect.

(14) "Nonmember state" means a state that has not enacted this compact.

(15) "Notice of residential placement" means information regarding a placement into a residential facility that is provided to the receiving state, including, but not limited to, the name of the child, the date and place of birth of the child, the identity and address of the parent or legal guardian, evidence of authority to make the placement, and the name and address of the facility in which the child will be placed. The term also includes information regarding a discharge and any unauthorized absence from the facility.

(16) "Placement" means the act by a public or private child placing agency intended to arrange for the care or custody of a child in another state.

(17) "Private child placing agency" means any private corporation, agency, foundation, institution, or charitable organization, or any private person or attorney, that facilitates, causes, or is involved in the placement of a child from one (1) state to another and that is not an instrumentality of the state or acting under color of state law.

(18) "Provisional placement" means a determination made by the public child placing agency in the receiving state that the receiving state has determined that the proposed placement is safe and suitable, and, to the extent allowable, the receiving state has temporarily waived its standards or requirements otherwise applicable to prospective foster or adoptive parents so as not to delay the placement. Completion of the receiving state requirements regarding training for prospective foster or adoptive parents shall not delay an otherwise safe and suitable placement.

(19) "Public child placing agency" means any government child welfare agency or child protection agency, or a private entity under contract with such an agency, regardless of whether the agency or entity acts on behalf of a state, county, municipality, or other governmental unit, that facilitates, causes, or is involved in the placement of a child from one (1) state to another.

(20) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought.

(21) "Relative" means someone who is related to the child as a parent, stepparent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin, or a nonrelative with such significant ties to the child that they may be regarded as relatives as determined by the court in the sending state.

(22) "Residential facility" means a facility providing a level of care that is sufficient to substitute for parental responsibility or foster care and is beyond what is needed for assessment or treatment of an acute condition. For purposes of the compact, residential facilities do not include institutions that are primarily educational in character, hospitals, or other medical facilities.

(23) "Rule" means a written directive, mandate, standard, or principle that is issued by the interstate commission and promulgated under Article XI of this compact, that is of general applicability, and that implements, interprets or prescribes a policy or provision of the compact. A rule has the force and effect of an administrative rule in a member state, and includes the amendment, repeal, or suspension of an existing rule.

(24) "Sending state" means the state from which the placement of a child is initiated.

(25) "Service member's permanent duty station" means the military installation where an active duty armed services member is currently assigned and is physically located under competent orders that do not specify the duty as temporary.

(26) "Service member's state of legal residence" means the state in which the active duty armed services member is considered a resident for tax and voting purposes.

(27) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, or any other territory of the United States.

(28) "State court" means a judicial body of a state that is vested by law with responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency, or status offenses of individuals less than eighteen (18) years of age.

(29) "Supervision" means monitoring provided by the receiving state once a child has been placed in a receiving state under this compact.

#### ARTICLE III. APPLICABILITY

(a) Except as otherwise provided in subsection (b), this compact applies to the following:

(1) The interstate placement of a child subject to ongoing court jurisdiction in the sending state, due to allegations

or findings that the child has been abused, neglected, or deprived as defined by the laws of the sending state. However, the placement of such a child into a residential facility requires only notice of residential placement to the receiving state before placement.

(2) The interstate placement of a child adjudicated delinquent or unmanageable based on the laws of the sending state and subject to ongoing court jurisdiction of the sending state if:

(A) the child is being placed in a residential facility in another member state and is not covered under another compact; or

(B) the child is being placed in another member state and the determination of safety and suitability of the placement and services required is not provided through another compact.

(3) The interstate placement of any child by a public child placing agency or private child placing agency as defined in this compact as a preliminary step to a possible adoption.

(b) The provisions of this compact do not apply to the following:

(1) The interstate placement of a child with a nonrelative in a receiving state by a parent with the legal authority to make such a placement; however, the placement is not intended to effectuate an adoption.

(2) The interstate placement of a child by one (1) relative with the lawful authority to make such a placement directly with a relative in a receiving state.

(3) The placement of a child not subject to subsection (a) into a residential facility by the child's parent.

(4) The placement of a child with a noncustodial parent if:

(A) the noncustodial parent proves to the satisfaction of a court in the sending state a substantial relationship with the child;

(B) the court in the sending state makes a written finding that placement with the noncustodial parent is in the best interests of the child; and

(C) the court in the sending state dismisses its jurisdiction over the child's case.

(5) A child entering the United States from a foreign country for the purpose of adoption or leaving the United States to go to a foreign country for the purpose of adoption in that country.

(6) Cases in which a United States citizen child living overseas with the child's family, at least one (1) member of which is in the United States armed services and is stationed overseas, is removed and placed in a state.

(7) The sending of a child by a public child placing agency or a private child placing agency for a visit as defined by the rules of the interstate commission.

(c) For purposes of determining the applicability of this compact to the placement of a child with a family having a member in the United States armed services, the public child placing agency or private child placing agency may choose the state of the service member's permanent duty station or the service member's declared legal residence.

(d) This compact shall not be construed to prohibit the concurrent application of the provisions of this compact with other applicable interstate compacts, including the interstate compact for juveniles and the interstate compact on adoption and medical assistance. The interstate commission may, in cooperation with other interstate compact commissions having responsibility for the interstate movement, placement, or transfer of children, promulgate like rules to ensure the coordination of services, the timely placement of children, and the reduction of unnecessary or duplicative administrative or procedural requirements.

#### ARTICLE IV. JURISDICTION

(a) Except as provided in subsection (g) concerning private and independent adoptions, the sending state retains jurisdiction over a child with respect to all matters of custody and disposition of the child which it would have had if the child had remained in the sending state. Jurisdiction also includes the power to order the return of the child to the sending state.

(b) When an issue of child protection or custody is brought before a court in the receiving state, the court shall confer with the court of the sending state to determine the most appropriate forum for adjudication.

(c) In accordance with its own laws, the court in the sending state shall have authority to terminate its jurisdiction if:

(1) the parent with whom the child is reunified in the receiving state is the subject of allegations or findings of abuse or neglect, but only with the concurrence of the public child placing agency in the receiving state;

(2) the child is adopted;

(3) the child reaches the age of majority under the laws of the sending state;

(4) the child achieves legal independence under the laws of the sending state;

(5) a guardianship is created by a court in the receiving state with the concurrence of the court in the sending state;

(6) an Indian tribe has petitioned for and received jurisdiction from the court in the sending state; or

(7) the public child placing agency of the sending state requests termination and has obtained the concurrence of the public child placing agency in the receiving state.

(d) When a sending state court terminates its jurisdiction, the receiving state child placing agency shall be notified.

(e) Nothing in this article shall defeat a claim of jurisdiction by a receiving state court sufficient to deal with an act of truancy, delinquency, crime, or behavior that involves a child as defined by the laws of the receiving state, that is committed by the child in the receiving state, and that would be a violation of the laws of the receiving state.

(f) This article does not limit the receiving state's ability to take emergency jurisdiction for the protection of the child.

(g) The substantive laws of the state in which an adoption will be finalized shall solely govern all issues relating to the adoption of the child and the court in which the adoption proceeding is filed shall have subject matter jurisdiction regarding all substantive issues relating to the adoption, except:



(1) when the child is a ward of another court that established jurisdiction over the child prior to the placement;

(2) when the child is in the legal custody of a public agency in the sending state; or

(3) when a court in the sending state has otherwise appropriately assumed jurisdiction over the child, prior to the submission of the request for approval of placement.

(h) A final decree of adoption shall not be entered in any jurisdiction until the placement is authorized as an approved placement by the public child placing agency in the receiving state.

#### ARTICLE V. PLACEMENT EVALUATION

(a) Before sending, bringing, or causing a child to be sent or brought into a receiving state, the public child placing agency shall provide a written request for assessment to the receiving state.

(b) For placements by a private child placing agency, a child may be sent or brought, or caused to be sent or brought, into a receiving state upon receipt and review of the required content in a request for approval of a placement by both the sending state's and the receiving state's public child placing agency. The required content for a request for provisional approval shall include all of following:

(1) A request for approval identifying the child, the birth parent(s), the prospective adoptive parent(s), and the supervising agency, signed by the person requesting approval.

(2) Certification by a licensed attorney or other authorized agent that the consent or relinquishment is in compliance with the applicable laws of the sending state, or where permitted the laws of the state where finalization of the adoption will occur.

(3) A home study.

(4) An acknowledgment of legal risk signed by the prospective adoptive parents.

(c) The sending state and the receiving state may request additional information or documents before finalization of an approved placement, but they may not delay travel by the prospective adoptive parents with the child if the required content for approval has been submitted and has been received and reviewed by the public child placing agency in both the sending state and the receiving state.

(d) Approval from the public child placing agency in the receiving state for a provisional or approved placement is required as provided for in the rules of the interstate commission.

(e) The procedures for making and the request for an assessment shall contain all information and be in such form as provided for in the rules of the interstate commission.

(f) Upon receipt of a request from the public child welfare agency of the sending state, the receiving state shall initiate an assessment of the proposed placement to determine its safety and suitability. If the proposed placement is a placement with a relative, the public child placing agency of the sending state may request a determination of whether the placement qualifies as a provisional placement.

(g) Upon receipt of a request from the public child placing agency of the sending state, the receiving state shall initiate an assessment of the proposed placement to determine its safety and suitability. If the proposed placement is a placement with a relative, the public child placing agency of the sending state may request a determination for a provisional placement.

(h) The public child placing agency in the receiving state may request from the public child placing agency or the private child placing agency in the sending state, and shall be entitled to receive, supporting or additional information necessary to complete the assessment.

(i) The public child placing agency in the receiving state shall approve a provisional placement and complete or arrange for the completion of the assessment within the timeframes established by the rules of the interstate commission.

(j) For a placement by a private child placing agency, the sending state shall not impose any additional requirements to complete the home study that are not required by the receiving state, unless the adoption is finalized in the sending state.

(k) The interstate commission may develop uniform standards for the assessment of the safety and suitability of interstate placements.

#### ARTICLE VI. PLACEMENT AUTHORITY

(a) Except as otherwise provided in this Compact, no child subject to this compact shall be placed into a receiving state until approval for such placement is obtained.

(b) If the public child placing agency in the receiving state does not approve the proposed placement, the child shall not be placed. The receiving state shall provide written documentation of any such determination in accordance with the rules promulgated by the interstate commission. Such a determination is not subject to judicial review in the sending state.

(c) If the proposed placement is not approved, any interested party shall have standing to seek an administrative review of the receiving state's determination.

(d) The administrative review and any further judicial review associated with the determination shall be conducted in the receiving state under its applicable administrative procedures.

(e) If a determination not to approve the placement of the child in the receiving state is overturned upon review, the placement shall be considered approved; however, all administrative or judicial remedies must be exhausted or the time for such remedies must have passed.

#### ARTICLE VII. PLACING AGENCY RESPONSIBILITY

(a) For the interstate placement of a child made by a public child placing agency or state court:

(1) the public child placing agency in the sending state shall have financial responsibility for:

(A) the ongoing support and maintenance for the child during the period of the placement, unless otherwise provided for in the receiving state; and

(B) as determined by the public child placing agency in the sending state, services for the child beyond the public services for which the child is eligible in the receiving state;

(2) the receiving state shall have financial responsibility only for:

(A) any assessment conducted by the receiving state; and

(B) supervision conducted by the receiving state at the level necessary to support the placement as agreed upon by the public child placing agencies of the receiving and sending states; and

(3) nothing in this compact prohibits public child placing agencies in the sending state from entering into agreements with licensed agencies or persons in the receiving state to conduct assessments and provide supervision.

(b) For the placement of a child by a private child placing agency preliminary to a possible adoption, the private child placing agency shall be:

(1) legally responsible for the child during the period of placement as provided for in the law of the sending state until the finalization of the adoption; and

(2) financially responsible for the child absent a contractual agreement to the contrary.

(c) A private child placing agency shall be responsible for any assessment conducted in the receiving state and any supervision conducted by the receiving state at the level required by the laws of the receiving state or the rules of the interstate commission.

(d) The public child placing agency in the receiving state shall provide timely assessments, as provided for in the rules of the interstate commission.

(e) The public child placing agency in the receiving state shall provide, or arrange for the provision of, supervision and services for the child, including timely reports, during the period of the placement.

(f) This compact does not limit the authority of the public child placing agency in the receiving state to contract with a licensed agency or person in the receiving state for an assessment or the provision of supervision or services for the child or otherwise authorize the provision of supervision or services by a licensed agency during the period of placement.

(g) Each member state shall provide for coordination among its branches of government concerning the state's participation in, and compliance with, the compact and interstate commission activities, through the creation of an advisory council or use of an existing body or board.

(h) Each member state shall establish a central state compact office, which shall be responsible for state compliance with the compact and the rules of the interstate commission.

(i) The public child placing agency in the sending state shall oversee compliance with the provisions of the Indian Child Welfare Act (25 U.S.C. 1901 et seq.) for placements subject to the provisions of this compact, before placement.

(j) With the consent of the interstate commission, states may enter into limited agreements that facilitate the timely assessment and provision of services and supervision of placements under this compact.

#### ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN

The member states hereby establish, by way of this

compact, a commission known as the "interstate commission for the placement of children". The activities of the interstate commission are the formation of public policy and are a discretionary state function. The interstate commission:

(1) is a joint commission of the member states and shall have the responsibilities, powers, and duties set forth herein, and such additional powers as may be conferred upon it by subsequent concurrent action of the respective legislatures of the member states;

(2) consists of one (1) commissioner from each member state, who shall be appointed by the executive head of the state human services administration with ultimate responsibility for the child welfare program, and who shall have the legal authority to vote on policy related matters governed by this compact binding the state;

(3) operates under the following requirements:

(A) a requirement that each member state represented at a meeting of the interstate commission is entitled to one (1) vote;

(B) a requirement that a majority of the member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission;

(C) a requirement that a representative shall not delegate a vote to another member state;

(D) a requirement that a representative may delegate voting authority to another person from the same member state for a specified meeting; and

(E) a requirement that the interstate commission shall include, in addition to the commissioners of each member state, persons who are members of interested organizations as defined in the bylaws or rules of the interstate commission and who shall be ex officio and shall not be entitled to vote on any matter before the interstate commission; and

(4) shall establish an executive committee which shall have the authority to administer the day to day operations and administration of the interstate commission but does not have the power to engage in rulemaking.

#### ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission has powers to do the following:

(1) Promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact.

(2) Provide for dispute resolution among member states.

(3) Issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, or actions.

(4) Enforce compliance with this compact or the bylaws or rules of the interstate commission under Article XII.

(5) Collect standardized data concerning the interstate placement of children subject to this compact as directed through its rules, which shall specify the data to be collected, the means of collection and data exchange, and reporting requirements.

- (6) Establish and maintain offices as may be necessary for the transacting of its business.
- (7) Purchase and maintain insurance and bonds.
- (8) Hire or contract for services of personnel or consultants as necessary to carry out its functions under the compact and establish personnel qualification policies and rates of compensation.
- (9) Establish and appoint committees and officers, including, but not limited to, an executive committee as required by Article X.
- (10) Accept any and all donations and grants of money, equipment, supplies, materials, and services, and receive, use, and dispose of the donations and grants.
- (11) Lease, purchase, accept contributions or donations of, or otherwise own, hold, improve, or use any property, whether real, personal, or mixed.
- (12) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, whether real, personal, or mixed.
- (13) Establish a budget and make expenditures.
- (14) Adopt a seal and bylaws governing the management and operation of the interstate commission.
- (15) Report annually to the legislatures, the governors, the judiciary, and the state advisory councils of the member states concerning the activities of the interstate commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the interstate commission.
- (16) Coordinate and provide education, training, and public awareness regarding the interstate movement of children for officials involved in such activity.
- (17) Maintain books and records in accordance with the bylaws of the interstate commission.
- (18) Perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

#### ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

##### (a) Bylaws.

- (1) Within twelve (12) months after the first interstate commission meeting, the interstate commission shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of this compact.
- (2) The interstate commission's bylaws and rules shall establish conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

##### (b) Meetings.

- (1) The interstate commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.
- (2) Public notice shall be given by the interstate commission of all meetings, and all meetings shall be open to the public, except as set forth in the rules or as

otherwise provided in the compact. The interstate commission and its committees may close a meeting, or part of a meeting, where it determines by two-thirds (2/3) vote that an open meeting would be likely to:

- (A) relate solely to the interstate commission's internal personnel practices and procedures;
- (B) disclose matters specifically exempted from disclosure by federal law;
- (C) disclose financial or commercial information which is privileged, proprietary, or confidential in nature;
- (D) involve accusing a person of a crime, or formally censuring a person;
- (E) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy or physically endanger one (1) or more persons;
- (F) disclose investigative records compiled for law enforcement purposes; or
- (G) specifically relate to the interstate commission's participation in a civil action or other legal proceeding.

(3) For a meeting, or part of a meeting, closed under this provision, the interstate commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemption provision. The interstate commission shall keep minutes that shall fully and clearly describe all matters discussed in the meeting and shall provide a full and accurate summary of actions taken and the reasons for the actions, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in the minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the interstate commission or by court order.

(4) The bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or other electronic communication.

##### (c) Officers and staff.

(1) The interstate commission may, through its executive committee, appoint or retain a staff director for such period, upon such terms and conditions, and for such compensation as the interstate commission may consider appropriate. The staff director shall serve as secretary to the interstate commission, but shall not have a vote. The staff director may hire and supervise such other staff as may be authorized by the interstate commission.

(2) The interstate commission shall elect, from among its members, a chairperson and a vice chairperson of the executive committee and other necessary officers, each of whom shall have such authority and duties as may be specified in the bylaws.

##### (d) Qualified immunity, defense, and indemnification.

(1) The interstate commission's staff director and the employees of the commission are immune from suit and liability, either personally or in official capacity, for a claim for damage to or loss of property or personal

injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that the staff director or employee had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities. The staff director or an employee is not protected from suit or liability for damage, loss, injury, or liability caused by a criminal act or intentional or willful and wanton misconduct.

(2) The liability of the interstate commission's staff director and employees or interstate commission representatives, acting within the scope of such person's employment or duties, for acts, errors, or omissions occurring within such person's state, may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

(3) The interstate commission shall defend the staff director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state, shall defend the commissioner of a member state in a civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, if the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(4) To the extent not covered by the state involved, member state, or the interstate commission, the representatives or employees of the interstate commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, if the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

#### **ARTICLE XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION**

(a) The interstate commission shall promulgate and publish rules in order effectively and efficiently to achieve the purposes of the compact.

(b) Rulemaking shall occur under the criteria set forth in this article and the bylaws and rules adopted pursuant thereto.

Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000), or such other administrative procedure acts as the interstate commission considers appropriate and consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the United States Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the interstate commission.

(c) When promulgating a rule, the interstate commission shall, at a minimum:

- (1) publish the proposed rule's entire text, stating the reasons for that proposed rule;
- (2) allow and invite any and all persons to submit written data, facts, opinions, and arguments, which information shall be added to the record and be made publicly available; and
- (3) promulgate a final rule and its effective date, if appropriate, based on input from state or local officials or interested parties.

(d) Rules promulgated by the interstate commission shall have the force and effect of administrative rules and shall be binding in the compacting states to the extent and in the manner provided for in this compact.

(e) Not later than sixty (60) days after a rule is promulgated, an interested person may file a petition in the U.S. District Court for the District of Columbia or in the federal district court of the district where the interstate commission's principal office is located for judicial review of such rule. If the court finds that the interstate commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside.

(f) A majority of the legislatures of the member states may reject a rule by enacting, in the same manner used to adopt the compact, a statute or resolution which provides that the rule shall have no further force and effect in any member state.

(g) The existing rules governing the operation of the interstate compact on the placement of children that are superseded by this act shall be null and void no less than twelve (12), but no more than twenty-four (24), months after the first meeting of the interstate commission created hereunder, as determined by the members during the first meeting.

(h) Within the first twelve (12) months of operation, the interstate commission shall promulgate rules addressing the following:

- (1) Transition rules.
- (2) Forms and procedures.
- (3) Time lines.
- (4) Data collection and reporting.
- (5) Rulemaking.
- (6) Visitation.
- (7) Progress reports/supervision.
- (8) Sharing of information/confidentiality.
- (9) Financing of the interstate commission.
- (10) Mediation, arbitration, and dispute resolution.
- (11) Education, training, and technical assistance.

(12) Enforcement.

(13) Coordination with other interstate compacts.

(i) Upon determination by a majority of the members of the interstate commission that an emergency exists, the interstate commission may promulgate an emergency rule, subject to the following:

(1) The interstate commission may promulgate an emergency rule only if the emergency rule is required to:

(A) protect the children covered by this compact from an imminent threat to their health, safety, and well-being;

(B) prevent loss of federal or state funds; or

(C) meet a deadline for the promulgation of an administrative rule required by federal law.

(2) An emergency rule shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to the rule as soon as reasonably possible, but not later than ninety (90) days after the effective date of the emergency rule.

(3) An emergency rule shall be promulgated as provided for in the rules of the interstate commission.

## **ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT**

(a) Oversight.

(1) The interstate commission shall oversee the administration and operation of the compact.

(2) The executive, legislative and judicial branches of state government in each member state shall enforce this compact and the rules of the interstate commission and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The compact and its rules shall be binding in the compacting states to the extent and in the manner provided for in this compact.

(3) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact.

(4) The interstate commission shall be entitled to receive service of process in any action in which the validity of a compact provision or rule is the issue for which a judicial determination has been sought and shall have standing to intervene in any proceedings. Failure to provide service of process to the interstate commission shall render any judgment, order, or other determination, however so captioned or classified, void as to the interstate commission, this compact, its bylaws, or rules of the interstate commission.

(b) Dispute resolution.

(1) The interstate commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and that may arise among member states and between member and nonmember states.

(2) The interstate commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among compacting states. The

costs of such mediation or dispute resolution shall be the responsibility of the parties to the dispute.

(c) Enforcement.

(1) If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, its bylaws, or rules, the interstate commission may:

(A) provide remedial training and specific technical assistance;

(B) provide written notice to the defaulting state and other member states of the nature of the default and the means of curing the default. The interstate commission shall specify the conditions by which the defaulting state must cure its default;

(C) by majority vote of the members, initiate against a defaulting member state legal action in the United States District Court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal office, to enforce compliance with the provisions of the compact, its bylaws, or rules. The relief sought may include both injunctive relief and damages. If judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees; or

(D) avail itself of any other remedies available under state law or the rules relating to the regulation of official or professional conduct.

## **ARTICLE XIII. FINANCING OF THE COMMISSION**

(a) The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff, which must be in a total amount sufficient to cover the interstate commission's annual budget as approved by its members each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.

(c) The interstate commission shall not incur obligations of any kind before securing the funds adequate to meet the obligations. The interstate commission shall not pledge the credit of any of the member states, except by and with the authority of the member state.

(d) The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the interstate commission.

## **ARTICLE XIV. MEMBER STATES, AMENDMENT**

(a) Any state is eligible to become a member state.

(b) The compact shall become effective and binding upon

legislative enactment of the compact into law by thirty-five (35) states. The effective date shall be the later of July 1, 2007, or upon enactment of the compact into law by the thirty-fifth state. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The executive heads of the state human services administration with ultimate responsibility for the child welfare program of nonmember states or their designees shall be invited to participate in the activities of the interstate commission on a non-voting basis before adoption of the compact by all states.

(c) The interstate commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding on the member states unless and until it is enacted into law by unanimous consent of the member states.

#### **ARTICLE XV. WITHDRAWAL AND DISSOLUTION**

##### **(a) Withdrawal.**

(1) Once effective, this compact continues in force and remains binding upon each and every member state. However, a member state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

(2) Withdrawal from this compact shall be by the enactment of a statute repealing the statute establishing the compact. The effective date of withdrawal is the effective date of the repeal of the statute.

(3) The withdrawing state shall immediately notify the president of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall then notify the other member states of the withdrawing state's intent to withdraw.

(4) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal.

(5) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the members of the interstate commission.

##### **(b) Dissolution of compact.**

(1) This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one (1) member state.

(2) Upon the dissolution of this compact, the compact becomes void and is of no further force or effect, and the business and affairs of the interstate commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

#### **ARTICLE XVI. SEVERABILITY AND CONSTRUCTION**

(a) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is considered unenforceable, the remaining provisions of the compact shall be enforceable.

(b) The provisions of this compact shall be liberally construed to effectuate its purposes.

(c) Nothing in this compact shall be construed to prohibit the concurrent applicability of other interstate compacts to which the states are members.

#### **ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS**

##### **(a) Other laws.**

(1) This compact does not prevent the enforcement of any other law of a member state that is not inconsistent with this compact.

(2) All member states' laws conflicting with this compact or its rules are superseded to the extent of the conflict.

##### **(b) Binding effect of this compact.**

(1) All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the member states.

(2) All agreements between the interstate commission and the member states are binding in accordance with their terms.

(3) If any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, the provision is ineffective to the extent of the conflict with the constitutional provision in question in that member state.

#### **ARTICLE XVIII. INDIAN TRIBES**

Notwithstanding any other provision in this compact, the interstate commission may promulgate guidelines to permit Indian tribes to use the compact to achieve any or all of the purposes of the compact as specified in Article I. The interstate commission shall make reasonable efforts to consult with Indian tribes in promulgating guidelines to reflect the diverse circumstances of the various Indian tribes.

Sec. 2. Financial responsibility for a child placed under the provisions of the interstate compact for the placement of children shall be determined in accordance with Article VII of the interstate compact for the placement of children, as set forth in section 1 of this chapter. However, for the partial or complete default of performance, the provisions of IC 31-18 also may be invoked. In any appropriate case, financial support or contribution may be obtained by an appropriate agency in Indiana under IC 31-40 to aid in the discharge of the financial obligations of a sending agency that has placed a child in another state under the compact.

Sec. 3. The officers and agencies of Indiana and the subdivisions of Indiana having authority to place children may enter into agreements with appropriate officers or agencies of or in other party states under Article VII of the interstate compact for the placement of children, as set forth in section 1 of this chapter. An agreement that contains a financial commitment or imposes a financial obligation on Indiana or a subdivision or agency of Indiana is not binding unless the agreement has the approval in writing of the auditor of state in the case of the state and of the chief local fiscal officer in the case of a subdivision of the state.

Sec. 4. A requirement for visitation, inspection, or supervision of children, homes, institutions, or other agencies in another member state that applies under a provision of IC 31 is considered to be met if performed under an

agreement entered into between appropriate officers or agencies of Indiana or a subdivision of Indiana and appropriate officers or agencies of the other member state or a subdivision of the other member state as contemplated by Article IV of the interstate compact for the placement of children, as set forth in section 1 of this chapter.

Sec. 5. A court having jurisdiction to place children in a home, a facility, or an institution may place the child in a home, a facility, or an institution in another state under the interstate compact for the placement of children, as set forth in section 1 of this chapter, and shall retain jurisdiction as provided in Article IV of the interstate compact for the placement of children, as set forth in section 1 of this chapter.

Sec. 6. As used in Article VIII of the interstate compact for the placement of children, as set forth in section 1 of this chapter, the term "executive head" means the director. The director may appoint a compact administrator in accordance with the terms of Article VII of the interstate compact for the placement of children, as set forth in section 1 of this chapter.

SECTION 15. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 12-7-2-192.7; IC 12-13-5-13.

SECTION 16. [EFFECTIVE JULY 1, 2008] (a) Cases involving the placement of children under the interstate compact on the placement of children set forth in IC 31-28-4 that are pending when the interstate compact for the placement of children set forth in IC 31-28-6-1, as added by this act, goes into effect under IC 31-28-4-1.5, as added by this act, are governed by the interstate compact on the placement of children set forth in IC 31-28-4.

(b) This SECTION expires December 31, 2013."

Renumber all SECTIONS consecutively.

(Reference is to HB 1290 as reprinted January 29, 2008.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

BRAY, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Commerce, Public Policy and Interstate Cooperation, to which was referred Engrossed House Bill 1118, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, delete lines 16 through 17, begin a new paragraph and insert:

"SECTION 3. IC 7.1-1-3-18.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 18.5. (a) "Grocery store"** means a store or part of a store that is known generally as:

(1) a supermarket, grocery store, or delicatessen and is primarily engaged in the retail sale of a general food line, which may include:

(A) canned and frozen foods;

(B) fresh fruits and vegetables; and

(C) fresh and prepared meats, fish, and poultry;

(2) subject to subsection (b), a convenience store or food mart and is primarily engaged in:

(A) the retail sale of a line of goods that may include milk, bread, soda, and snacks; or

(B) the retail sale of automotive fuels and the retail sale of a line of goods that may include milk, bread, soda, and snacks;

(3) a warehouse club, superstore, supercenter, or general merchandise store and is primarily engaged in the retail sale of a general line of groceries or gourmet foods in combination with general lines of new merchandise, which may include apparel, furniture, and appliances; or

(4) a specialty or gourmet food store primarily engaged in the retail sale of miscellaneous specialty foods not for immediate consumption and not made on the premises, not including:

(A) meat, fish, and seafood;

(B) fruits and vegetables;

(C) confections, nuts, and popcorn; and

(D) baked goods.

(b) The term includes a convenience store or food mart as described in subsection (a)(2) only if the sale of alcoholic beverages on the premises of the convenient store or food mart represents a percentage of annual gross sales of twenty-five percent (25%) or less of all items sold on the premises, excluding gasoline and automotive oil products.

(c) The term does not include an establishment known generally as a gas station that is primarily engaged in:

(1) the retail sale of automotive fuels, which may include diesel fuel, gasohol, or gasoline; or

(2) the retail sale of automotive fuels, which may include diesel fuel, gasohol, or gasoline and activities that may include providing repair service, selling automotive oils, replacement parts, and accessories, or providing food services."

Delete page 2.

Page 3, delete lines 1 through 11.

Page 5, delete lines 2 through 6.

Page 6, delete lines 27 through 42.

Delete pages 7 through 10.

Page 11, delete lines 1 through 36.

Page 19, line 21, after "store" insert "**that is generally known as a convenience store or food mart as described in IC 7.1-1-3-18.5(a)(2)**".

Page 19, line 26, delete "store;" and insert "**store that is generally known as a convenience store or food mart as described in IC 7.1-1-3-18.5(a)(2);**".

Page 21, line 19, delete "(1/2)" and insert "(1/2)".

Page 22, delete lines 8 through 19.

Page 23, delete lines 24 through 42, begin a new paragraph and insert:

"SECTION 36. IC 7.1-3-17.5-6, AS AMENDED BY P.L.233-2007, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. Notwithstanding IC 7.1-5-5-7, the holder of a gaming site permit may, subject to the approval of the commission, provide alcoholic beverages to guests without charge at an event on the

licensed premises if all the following requirements are met:

- ~~(1)~~ The event is attended by not more than six hundred fifty ~~(650)~~ guests.
- ~~(2)~~ The event is not more than six ~~(6)~~ hours in duration.
- ~~(3)~~ **(1)** Each alcoholic beverage dispensed to a guest:
  - (A) is entered into a cash register that records and itemizes on the cash register tape each alcoholic beverage dispensed; and
  - (B) is entered into a cash register as a sale and at the same price that is charged to the general public.
- ~~(4)~~ **(2)** At the conclusion of the event, all alcoholic beverages recorded on the cash register tape are paid by the holder of the gaming site permit.
- ~~(5)~~ **(3)** All records of the alcoholic beverage sales, including the cash register tape, shall be maintained by the holder of the gaming site permit for not less than two (2) years.
- ~~(6)~~ **(4)** The holder of the gaming site permit complies with the rules of the commission."

Delete pages 24 through 25.

Page 26, delete lines 1 through 35, begin a new paragraph and insert:

"SECTION 37. IC 7.1-3-18.5-2, AS AMENDED BY P.L.224-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) A person who desires a certificate must provide the following to the commission:

- (1) The applicant's name and mailing address and the address of the premises for which the certificate is being issued.
- (2) **Except as provided in section 6(c) of this chapter**, a fee of two hundred dollars (\$200).
- (3) **The name under which the applicant transacts or intends to transact business.**
- (4) **The address of the applicant's principal place of business or headquarters, if any.**
- (5) **The statement required under section 2.6 of this chapter.**

(b) A separate certificate is required for each location where the tobacco products are sold or distributed.

(c) **A certificate holder shall conspicuously display the holder's certificate on the holder's premises where the tobacco products are sold or distributed.**

(d) **Any intentional misstatement or suppression of a material fact in an application filed under this section constitutes grounds for denial of the certificate.**

(e) **A certificate may be issued only to a person who meets the following requirements:**

- (1) If the person is an individual, the person must be at least eighteen (18) years of age.**
- (2) The person must be authorized to do business in Indiana.**

~~(f)~~ **(f)** The fees collected under this section shall be deposited in the enforcement and administration fund under IC 7.1-4-10."

Page 27, line 1, delete "and".

Page 27, line 2, delete "vehicles".

Page 27, delete lines 6 through 42, begin a new paragraph and insert:

"SECTION 39. IC 7.1-3-18.5-5, AS AMENDED BY P.L.227-2007, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) Subject to subsection (b), the commission may suspend the certificate of a person who fails to pay a civil penalty imposed for violating IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11.5, or IC 35-46-1-11.7.

(b) Before enforcing the imposition of a civil penalty or suspending or revoking a certificate under this chapter, the commission shall provide written notice of the alleged violation to the certificate holder and conduct a hearing. The commission shall provide written notice of the civil penalty or suspension **or revocation of a certificate** to the certificate holder.

(c) Subject to subsection (b), the commission shall revoke the certificate of a person upon a finding by a preponderance of the evidence that the person:

- (1) has violated IC 35-45-5-3, IC 35-45-5-3.5, or IC 35-45-5-4;**
- (2) has committed habitual illegal sale of tobacco as established under IC 35-46-1-10.2(h); or**
- (3) has committed habitual illegal entrance by a minor as established under IC 35-46-1-11.7(f).**

SECTION 40. IC 7.1-3-18.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) If a certificate has:

- (1) expired; or
- (2) been suspended;

the commission may not reinstate or renew the certificate until all civil penalties imposed against the certificate holder for violating IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11.5, or IC 35-46-1-11.7 have been paid.

(b) The failure to pay a civil penalty described in subsection (a) is a Class B infraction.

**(c) If a certificate has been revoked, the commission may not reinstate or renew the certificate for at least one hundred eighty (180) days after the date of revocation. The commission may reinstate or renew the certificate only upon a reasonable showing by the applicant that the applicant shall:**

- (1) exercise due diligence in the sale of tobacco products on the applicant's premises where the tobacco products are sold or distributed; and**
- (2) properly supervise and train the applicant's employees or agents in the handling and sale of tobacco products.**

**If a certificate is reinstated or renewed, the applicant of the certificate shall pay an application fee of one thousand dollars (\$1,000).**

~~(d)~~ **(d)** Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the youth tobacco education and enforcement fund established under IC 7.1-6-2-6."

Page 28 delete lines 1 through 21.

Page 28, line 22, delete "IC 7.1-3-18.5-10" and insert "IC 7.1-3-18.5-8".

Page 28, line 24, delete "10." and insert "8".

Page 28, line 25, delete "tobacco retailer" and insert "certificate holder".



Page 28, line 27, delete "tobacco retailer" and insert **"certificate holder"**.

Page 28, line 28, delete "tobacco retailer's" and insert **"certificate holder's"**.

Page 28, delete lines 35 through 42, begin a new paragraph and insert:

"SECTION 42. IC 7.1-3-18.5-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 9. A certificate holder shall exercise due diligence in the supervision and training of the certificate holder's employees or agents in the handling and sale of tobacco products on the holder's retail premises. Proof that employees or agents of the certificate holder, while in the scope of their employment, committed at least six (6) violations relating to IC 35-46-1-10.2(a) in any one hundred eighty (180) day period shall be prima facie evidence of a lack of due diligence by the certificate holder in the supervision and training of the certificate holder's employees or agents.**

SECTION 43. IC 7.1-3-18.5-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 10. (a) If a certificate holder fails to attend or participate in a hearing without good cause, the hearing judge may recommend to the commission that the commission suspend or revoke the certificate holder's certificate or impose a fine on the certificate holder of up to one thousand dollars (\$1,000).**

**(b) A hearing judge may grant a continuance of a hearing upon written motion showing good cause for the continuance."**

Delete page 29.

Page 30, delete lines 1 through 38.

Page 31, delete lines 26 through 42, begin a new paragraph and insert:

"SECTION 46. IC 7.1-3-22-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4. ~~Dealers' Permits Limited:~~ (a) The commission may grant: only**

**(1) one (1) beer dealer's permit and in an incorporated city or town that has a population of less than fifteen thousand one (15,001) for each two thousand two hundred fifty (2,250) persons, or fraction thereof, within the incorporated city or town;**

**(2) in an incorporated city or town that has a population of more than fifteen thousand (15,000) but less than eighty thousand (80,000):**

**(A) one (1) beer dealer's permit for each three thousand five hundred (3,500) persons, or a fraction thereof; or**

**(B) seven (7) beer dealer's permits;**

**whichever is greater, within the incorporated city or town; and**

**(3) in an incorporated city or town that has a population of at least eighty thousand (80,000):**

**(A) one (1) beer dealer's permit for each six thousand (6,000) persons, or a fraction thereof; or**

**(B) twenty-three (23) beer dealer's permits;**

**whichever is greater, within the incorporated city or town.**

**(b) The commission may grant:**

**(1) one (1) liquor dealer's permit in an incorporated city or town ~~or unincorporated town~~ that has a population of less than fifteen thousand one (15,001) for each ~~one~~ two thousand five hundred (1,500) two hundred fifty (2,250) persons, or fraction thereof, within the incorporated city or town; ~~or unincorporated town;~~**

**(2) in an incorporated city or town that has a population of more than fifteen thousand (15,000) but less than eighty thousand (80,000):**

**(A) one (1) liquor dealer's permit for each three thousand five hundred (3,500) persons, or a fraction thereof; or**

**(B) seven (7) liquor dealer's permits;**

**whichever is greater, within the incorporated city or town; and**

**(3) in an incorporated city or town that has a population of at least eighty thousand (80,000):**

**(A) one (1) liquor dealer's permit for each six thousand (6,000) persons, or a fraction thereof; or**

**(B) twenty-three (23) liquor dealer's permits;**

**whichever is greater, within the incorporated city or town.**

**(c) The commission may grant only one (1) beer dealer's permit and one (1) liquor dealer's permit in an area in the county outside an incorporated city or town for each two thousand five hundred (2,500) persons, or fraction thereof, within the area in a county outside an incorporated city or town.**

**(d) Notwithstanding subsections (a), (b), and (c), the commission may renew or transfer a beer dealer's or liquor dealer's permit for a beer dealer or liquor dealer that:**

**(1) held a permit before July 1, 2008; and**

**(2) does not qualify for a permit under the quota restrictions set forth in subsection (a), (b), or (c).**

**(e) Notwithstanding subsection (a) or (c) and subject to subsection (g), the commission may grant not more than two (2) new beer dealer's permits or five percent (5%) of the total beer dealer permits established under the quota restrictions set forth in subsection (a) or (c), whichever is greater, for each of the following:**

**(1) An incorporated city or town that does not qualify for any new beer dealer's permits under the quota restrictions set forth in subsection (a).**

**(2) An area in a county outside an incorporated city or town that does not qualify for any new beer dealer's permits under the quota restrictions set forth in subsection (c).**

**(f) Notwithstanding subsection (b) or (c) and subject to subsection (g), the commission may grant not more than two (2) new liquor dealer's permits or five percent (5%) of the total liquor dealer permits established under the quota restrictions set forth in subsection (b) or (c), whichever is greater, for each of the following:**

**(1) An incorporated city or town that does not qualify for any new liquor dealer's permits under the quota restrictions set forth in subsection (b).**

(2) An area in a county outside an incorporated city or town that does not qualify for any new liquor dealer's permits under the quota restrictions set forth in subsection (c).

(g) To grant additional permits under subsection (e) or (f), the commission shall:

(1) investigate the desirability of the permit by considering:

(A) whether there is a need for the services at the requested location of the dealer permit;

(B) the desire of the neighborhood or the community to receive the services;

(C) the impact of the services on other businesses in the neighborhood or community; and

(D) the impact of the services on the neighborhood or community; and

(2) consider the increase or decrease in population in the incorporated city or town since the last decennial census."

Delete pages 32 through 37.

Page 38, delete line 1.

Page 38, line 13, after "(a)" insert "This section does not apply to product management (as described in 905 IAC 1-5.2-15) by a permittee.

(b)".

Page 38, line 19, delete "(b)" and insert "(c)".

Page 38, delete lines 23 through 42, begin a new paragraph and insert:

"SECTION 49. IC 7.1-5-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) It is a ~~Class C~~ ~~infraction~~ **Class C misdemeanor** for a minor to **knowingly or intentionally** make a false statement of the minor's age or to present or offer false or fraudulent evidence of majority or identity to a permittee for the purpose of ordering, purchasing, attempting to purchase, or otherwise procuring or attempting to procure an alcoholic beverage.

(b) In addition to the penalty under subsection (a), a minor who:

(1) uses a false or altered driver's license or the driver's license of another person as evidence of majority under this section; or

(2) is convicted of purchasing or procuring an alcoholic beverage with or without using a false or altered driver's license;

shall have the minor's driver's license suspended for up to one (1) year in accordance with IC 9-24-18-8 and IC 9-30-4-9.

(c) Upon entering a judgment of conviction for the ~~infraction~~ **misdemeanor** under this section, the court shall forward a copy of the judgment to the bureau of motor vehicles for the purpose of complying with subsection (b)."

Page 39, delete lines 20 through 42, begin a new paragraph and insert:

"SECTION 51. IC 7.1-5-7-13, AS AMENDED BY P.L.161-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. Section 12 of this chapter does not prohibit the following:

(1) The employment of a person at least eighteen (18) years of age but less than twenty-one (21) years of age on or

about licensed premises where alcoholic beverages are sold, furnished, or given away for consumption either on or off the licensed premises, for a purpose other than:

(A) selling;

(B) furnishing, other than serving;

(C) consuming; or

(D) otherwise dealing in;

alcoholic beverages.

(2) A person at least ~~eighteen (18)~~ **nineteen (19)** years of age but less than twenty-one (21) years of age from ringing up a sale of alcoholic beverages in the course of the person's employment.

(3) A person **who is** at least nineteen (19) years of age but less than twenty-one (21) years of age ~~who: and (A) who~~ has successfully completed an alcohol server training program certified under IC 7.1-3-1.5 ~~and (B) serves from~~ **serving** alcoholic beverages in a dining area or family room of a restaurant or hotel:

(i) **(A)** in the course of a person's employment as a waiter, waitress, or server; and

(ii) **(B)** under the supervision of a person who:

(i) is at least twenty-one (21) years of age;

(ii) is present at the restaurant or hotel; and

(iii) has successfully completed an alcohol server training program certified under IC 7.1-3-1.5 by the commission.

This subdivision does not allow a person at least nineteen (19) years of age but less than twenty-one (21) years of age to be a bartender."

Page 40, delete lines 1 through 10.

Page 43, delete lines 7 through 42, begin a new paragraph and insert:

"SECTION 59. IC 9-21-4-5, AS AMENDED BY P.L.30-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) Except as provided in subsection (b), a person may not place or maintain upon a highway a traffic sign or signal bearing commercial advertising. A public authority may not permit the placement of a traffic sign or signal that bears a commercial message.

(b) Under criteria to be jointly established by the Indiana department of transportation and the office of tourism development, the Indiana department of transportation may authorize the posting of any of the following:

(1) Limited tourist attraction signage.

(2) Business signs on specific information panels on the interstate system of highways and other freeways.

All costs of manufacturing, installation, and maintenance to the Indiana department of transportation for a business sign posted under this subsection shall be paid by the business.

(c) Criteria established under subsection (b) for tourist attraction signage must include a category for a tourist attraction that:

(1) is a trademarked destination brand; and

(2) encompasses buildings, structures, sites, or other facilities that are:

(A) listed on the National Register of Historic Places established under 16 U.S.C. 470 et seq.; or

(B) listed on the register of Indiana historic sites and historic structures established under IC 14-21-1; regardless of the distance of the tourist attraction from the highway on which the tourist attraction signage is placed.

**(d) Criteria established under subsection (b) for tourist attraction signage must include a category for a tourist attraction that is an establishment licensed under IC 7.1-3-2-7(5).**

~~(d)~~ **(e)** A person may not place, maintain, or display a flashing, a rotating, or an alternating light, beacon, or other lighted device that:

- (1) is visible from a highway; and
- (2) may be mistaken for or confused with a traffic control device or for an authorized warning device on an emergency vehicle.

~~(e)~~ **(f)** This section does not prohibit the erection, upon private property adjacent to highways, of signs giving useful directional information and of a type that cannot be mistaken for official signs."

Page 44, delete lines 1 through 2.

Page 44, delete lines 7 through 42, begin a new paragraph and insert:

"SECTION 61. IC 35-46-1-10.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 10.1. (a) If a permit holder or an agent or employee of a permit holder violates IC 7.1-5-7-8 on the licensed premises, in addition to any other penalty, a civil judgment may be imposed against the permit holder as follows:**

- (1) If the licensed premises at that specific business location has not been issued a citation or summons for a violation of IC 7.1-5-7-8 in the previous one hundred eighty (180) days, a civil penalty of up to two hundred dollars (\$200).**
- (2) If the licensed premises at that specific business location has had one (1) citation or summons for a violation of IC 7.1-5-7-8 in the previous one hundred eighty (180) days, a civil penalty of up to four hundred dollars (\$400).**
- (3) If the licensed premises at that specific business location has had two (2) citations or summonses for a violation of IC 7.1-5-7-8 in the previous one hundred eighty (180) days, a civil penalty of up to seven hundred dollars (\$700).**
- (4) If the licensed premises at that specific business location has had three (3) or more citations or summonses for a violation of IC 7.1-5-7-8 in the previous one hundred eighty (180) days, a civil penalty of up to one thousand dollars (\$1,000).**

**(b) The defenses set forth in IC 7.1-5-7-5.1 are available to a permit holder in an action under this section.**

**(c) Unless a person less than twenty-one (21) years of age buys or receives an alcoholic beverage under the direction of a law enforcement officer as part of an enforcement action, a permit holder that sells alcoholic beverages is not liable under this section unless the person less than twenty-one (21) years of age who bought or received the alcoholic beverage is charged for violating IC 7.1-5-7-7.**

**(d) All civil penalties collected under this section shall be deposited in the alcohol and tobacco commission's enforcement and administration fund under IC 7.1-4-10.**

SECTION 62. IC 35-46-1-10.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 10.2. (a)** A retail establishment that sells or distributes tobacco to a person less than eighteen (18) years of age commits a Class C infraction. For a sale to take place under this section, the buyer must pay the retail establishment for the tobacco product. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:

- (1) If the retail establishment at that specific business location has not been issued a citation or summons for a violation of this section in the previous ~~ninety (90)~~ one hundred eighty (180) days, a civil penalty of ~~fifty dollars (\$50)~~ up to two hundred dollars (\$200).**
- (2) If the retail establishment at that specific business location has had one (1) citation or summons issued for a violation of this section in the previous ~~ninety (90)~~ one hundred eighty (180) days, a civil penalty of ~~one hundred dollars (\$100)~~ up to four hundred dollars (\$400).**
- (3) If the retail establishment at that specific business location has had two (2) citations or summonses issued for a violation of this section in the previous ~~ninety (90)~~ one hundred eighty (180) days, a civil penalty of ~~two hundred fifty dollars (\$250)~~ up to seven hundred dollars (\$700).**
- (4) If the retail establishment at that specific business location has had three (3) or more citations or summonses issued for a violation of this section in the previous ~~ninety (90)~~ one hundred eighty (180) days, a civil penalty of ~~five hundred dollars (\$500)~~ up to one thousand dollars (\$1,000).**

A retail establishment may not be issued a citation or summons for a violation of this section more than once every twenty-four (24) hours for each specific business location.

**(b)** It is not a defense that the person to whom the tobacco was sold or distributed did not smoke, chew, or otherwise consume the tobacco.

**(c)** The following defenses are available to a retail establishment accused of selling or distributing tobacco to a person who is less than eighteen (18) years of age:

- (1)** The buyer or recipient produced a driver's license bearing the purchaser's or recipient's photograph showing that the purchaser or recipient was of legal age to make the purchase.
- (2)** The buyer or recipient produced a photographic identification card issued under IC 9-24-16-1 or a similar card issued under the laws of another state or the federal government showing that the purchaser or recipient was of legal age to make the purchase.
- (3)** The appearance of the purchaser or recipient was such that an ordinary prudent person would believe that the purchaser or recipient was not less than the age that complies with regulations promulgated by the federal Food and Drug Administration.

**(d)** It is a defense that the accused retail establishment sold or delivered the tobacco to a person who acted in the ordinary course of employment or a business concerning tobacco:

- (1) agriculture;
- (2) processing;
- (3) transporting;
- (4) wholesaling; or
- (5) retailing.

(e) As used in this section, "distribute" means to give tobacco to another person as a means of promoting, advertising, or marketing the tobacco to the general public.

(f) Unless a person buys or receives tobacco under the direction of a law enforcement officer as part of an enforcement action, a retail establishment that sells or distributes tobacco is not liable for a violation of this section unless the person less than eighteen (18) years of age who bought or received the tobacco is issued a citation or summons under section 10.5 of this chapter.

(g) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the Richard D. Doyle youth tobacco education and enforcement fund (IC 7.1-6-2-6).

(h) A person who violates subsection (a) at least six (6) times in any ~~six (6) month~~ **one hundred eighty (180) day** period commits habitual illegal sale of tobacco, a Class B infraction.

SECTION 63. IC 35-46-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) A tobacco vending machine that is located in a public place must bear ~~a the following conspicuous notice:~~ **notices:**

**(1) A notice:**

**(A)** that reads as follows, with the capitalization indicated: "If you are under 18 years of age, YOU ARE FORBIDDEN by Indiana law to buy tobacco from this machine."; or

~~(2) (B)~~ **(B)** that:

~~(A)~~ **(i)** conveys a message substantially similar to the message described in ~~subdivision (1); clause (A); and~~ **(ii)** is formatted with words and in a form authorized under the rules adopted by the alcohol and tobacco commission.

**(2) A notice that reads as follows, "Smoking by Pregnant Women May Result in Fetal Injury, Premature Birth, and Low Birth Weight."**

(b) A person who owns or has control over a tobacco vending machine in a public place and who:

- (1) fails to post ~~the a~~ notice required by subsection (a) on ~~his the~~ vending machine; or
- (2) fails to replace ~~the a~~ notice within one (1) month after it is removed or defaced;

commits a Class C infraction.

(c) An establishment selling tobacco at retail shall post and maintain in a conspicuous place, ~~a sign, at the point of sale, the following:~~

**(1) Signs** printed in letters at least one-half (1/2) inch high, reading as follows:

**(A)** "The sale of tobacco to persons under 18 years of age is forbidden by Indiana law."

**(B)** "Smoking by Pregnant Women May Result in Fetal Injury, Premature Birth, and Low Birth Weight."

**(2) A sign** printed in letters and numbers at least one-half (1/2) inch high that displays a toll free phone

**number that provides assistance to callers in quitting smoking, as determined by the state department of health.**

(d) A person who:

- (1) owns or has control over an establishment selling tobacco at retail; and
- (2) fails to post and maintain the sign required by subsection (c);

commits a Class C infraction.

SECTION 64. IC 35-46-1-11.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11.7. (a) A retail establishment that has as its primary purpose the sale of tobacco products may not allow an individual who is less than eighteen (18) years of age to enter the retail establishment.

(b) An individual who is less than eighteen (18) years of age may not enter a retail establishment described in subsection (a).

(c) A retail establishment described in subsection (a) must conspicuously post on all entrances to the retail establishment a sign in boldface type that states "NOTICE: It is unlawful for a person less than 18 years old to enter this store."

(d) A person who violates this section commits a Class C infraction. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:

(1) If the person has not been cited for a violation of this section in the previous ~~ninety (90)~~ **one hundred eighty (180)** days, a civil penalty of ~~fifty dollars (\$50); up to two hundred dollars (\$200).~~

(2) If the person has had one (1) violation in the previous ~~ninety (90)~~ **one hundred eighty (180)** days, a civil penalty of ~~one hundred dollars (\$100); up to four hundred dollars (\$400).~~

(3) If the person has had two (2) violations in the previous ~~ninety (90)~~ **one hundred eighty (180)** days, a civil penalty of ~~two hundred fifty dollars (\$250); up to seven hundred dollars (\$700).~~

(4) If the person has had three (3) or more violations in the previous ~~ninety (90)~~ **one hundred eighty (180)** days, a civil penalty of ~~five hundred dollars (\$500); up to one thousand dollars (\$1,000).~~

A person may not be cited more than once every twenty-four (24) hours.

(e) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the Richard D. Doyle youth tobacco education and enforcement fund established under IC 7.1-6-2-6.

**(f) A person who violates subsection (a) at least six (6) times in any one hundred eighty (180) day period commits habitual illegal entrance by a minor, a Class B infraction."**

Delete page 45.

Page 46, delete lines 1 through 27.

Page 46, line 38, delete "and IC 7.1-5-10-23, as added by this act, apply" and insert "**applies**".

Page 46, after line 42, begin a new paragraph and insert:

"SECTION 68. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "committee" refers to the interim study committee on alcoholic beverage issues established by this SECTION.

(b) There is established an interim study committee on alcoholic beverage issues.

(c) The committee shall study and make recommendations to the legislative council concerning the following:

(1) Alcohol server training and employee permits for sales clerks in dealer establishments.

(2) Additional one, two, or three-way permits for restaurants in economic development areas.

(3) Displaying alcoholic beverages in separate areas in dealer establishments.

(4) The historic origins of Indiana alcoholic beverage laws and the Twenty-first Amendment to the Constitution of the United States and its place and purpose in the twenty-first century.

(d) The committee shall operate under the policies governing study committees adopted by the legislative council.

(e) The affirmative votes of a majority of the members appointed to the committee are required for the committee to take action on any measure, including final reports.

(f) Before November 1, 2009, the committee shall issue a final report to the legislative council containing the findings and recommendations of the committee.

(g) This SECTION expires December 31, 2010.

SECTION 69. P.L.165-2006, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: SECTION 42. (a) As used in this SECTION, "alcohol server" has the meaning set forth in IC 7.1-3-1.5-1.

(b) As used in this SECTION, "certified trainer" has the meaning set forth in IC 7.1-3-1.5-1.3, as added by this act.

(c) As used in this SECTION, "commission" refers to the alcohol and tobacco commission established by IC 7.1-2-1-1.

(d) As used in this SECTION, "dealer permittee" has the meaning set forth in IC 7.1-3-1.5-2.

(e) As used in this SECTION, "retailer permittee" has the meaning set forth in IC 7.1-3-1.5-4.

(f) As used in this SECTION, "trainer certificate" has the meaning set forth in IC 7.1-3-1.5-4.4, as added by this act.

(g) Notwithstanding IC 7.1-3-1.5-12, a person who is training alcohol servers or individuals who plan to become certified trainers before July 1, 2006, may continue to train alcohol servers or individuals who plan to become certified trainers without a certificate issued under IC 7.1-3-1.5 pending the processing of an application for a trainer certificate under this SECTION.

(h) The person described in subsection (g) may submit to the commission an application for a trainer certificate under IC 7.1-3-1.5. To be entitled to continue training without a trainer certificate under subsection (g), the person must submit the application before March 1, 2007.

(i) The person described in subsection (g) shall cease training alcohol servers and individuals who plan to become certified trainers if:

(1) the person fails to submit an application within the time allowed under subsection (h); or

(2) the commission notifies the person that the commission has rejected the application submitted by the person under this SECTION.

(j) Notwithstanding IC 7.1-3-1.5-13:

(1) a retailer permittee or dealer permittee who is operating an establishment where alcoholic beverages are served or sold must ensure that each alcohol server completes a program established or approved under IC 7.1-3-1.5-6, as amended by this act, not later than:

(A) ~~January 1, 2009~~; **January 1, 2010**; or

(B) one hundred twenty (120) days after the date the alcohol server begins employment at the establishment; whichever is later; and

(2) a retailer permittee, a dealer permittee, or a management representative of a retailer or dealer permittee must complete a program established or approved under IC 7.1-3-1.5-6, as amended by this act, not later than:

(A) ~~January 1, 2009~~; **January 1, 2010**; or

(B) one hundred twenty (120) days after the date the retailer permittee or dealer permittee is issued a retailer permit or dealer permit under IC 7.1-3; whichever is later.

(k) This SECTION expires December 31, 2010.

SECTION 70. [EFFECTIVE JULY 1, 2008] **IC 7.1-5-7-1, as amended by this act, applies to crimes committed after June 30, 2008.**

SECTION 71. **An emergency is declared for this act."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1118 as reprinted January 25, 2008.) and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 1.

RIEGSECKER, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Engrossed House Bill 1172, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning health and professions and occupations.

Page 1, delete lines 1 through 5, begin a new paragraph and insert:

"SECTION 1. IC 10-14-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. As used in this chapter, "emergency management worker" includes any full-time or part-time paid, volunteer, or auxiliary employee of:

(1) the state;

(2) other:

(A) states;

(B) territories; or

(C) possessions;

(3) the District of Columbia;

(4) the federal government;

(5) any neighboring country;

(6) any political subdivision of an entity described in subdivisions (1) through (5); or

(7) any agency or organization; performing emergency management services at any place in Indiana subject to the order or control of, or under a request of, the state government or any political subdivision of the state. **The term includes a volunteer health practitioner registered under IC 10-14-3.5.**

SECTION 2. IC 10-14-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) The governor shall declare a disaster emergency by executive order or proclamation if the governor determines that a disaster has occurred or that the occurrence or the threat of a disaster is imminent. The state of disaster emergency continues until the governor:

- (1) determines that the threat or danger has passed or the disaster has been dealt with to the extent that emergency conditions no longer exist; and
- (2) terminates the state of disaster emergency by executive order or proclamation.

A state of disaster emergency may not continue for longer than thirty (30) days unless the state of disaster emergency is renewed by the governor. The general assembly, by concurrent resolution, may terminate a state of disaster emergency at any time. If the general assembly terminates a state of disaster emergency under this subsection, the governor shall issue an executive order or proclamation ending the state of disaster emergency. All executive orders or proclamations issued under this subsection must indicate the nature of the disaster, the area or areas threatened, and the conditions which have brought the disaster about or that make possible termination of the state of disaster emergency. An executive order or proclamation under this subsection shall be disseminated promptly by means calculated to bring the order's or proclamation's contents to the attention of the general public. Unless the circumstances attendant upon the disaster prevent or impede, an executive order or proclamation shall be promptly filed with the secretary of state and with the clerk of the city or town affected or with the clerk of the circuit court.

(b) An executive order or proclamation of a state of disaster emergency:

- (1) activates the disaster response and recovery aspects of the state, local, and interjurisdictional disaster emergency plans applicable to the affected political subdivision or area; and
- (2) is authority for:
  - (A) deployment and use of any forces to which the plan or plans apply; and
  - (B) use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled, or arranged to be made available under this chapter or under any other law relating to disaster emergencies.

(c) During the continuance of any state of disaster emergency, the governor is commander-in-chief of the organized and unorganized militia and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or regulations. This section does not restrict the governor's authority to delegate or assign command authority by orders issued at the time of the

disaster emergency.

(d) In addition to the governor's other powers, the governor may do the following while the state of emergency exists:

- (1) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency if strict compliance with any of these provisions would in any way prevent, hinder, or delay necessary action in coping with the emergency.
- (2) Use all available resources of the state government and of each political subdivision of the state reasonably necessary to cope with the disaster emergency.
- (3) Transfer the direction, personnel, or functions of state departments and agencies or units for performing or facilitating emergency services.
- (4) Subject to any applicable requirements for compensation under section 31 of this chapter, commandeer or use any private property if the governor finds this action necessary to cope with the disaster emergency.
- (5) Assist in the evacuation of all or part of the population from any stricken or threatened area in Indiana if the governor considers this action necessary for the preservation of life or other disaster mitigation, response, or recovery.
- (6) Prescribe routes, modes of transportation, and destinations in connection with evacuation.
- (7) Control ingress to and egress from a disaster area, the movement of persons within the area, and the occupancy of premises in the area.
- (8) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles.
- (9) Make provision for the availability and use of temporary emergency housing.
- (10) Allow persons who:

**(A) are registered as volunteer health practitioners by an approved registration system under IC 10-14-3.5; or**

**(B) hold a license to practice medicine, dentistry, pharmacy, nursing, engineering, veterinary medicine, mortuary service, and similar other professions as may be specified by the governor to practice their respective profession in Indiana during the period of the state of emergency if the state in which a person's license was issued has a mutual aid compact for emergency management with Indiana.**

- (11) Give specific authority to allocate drugs, foodstuffs, and other essential materials and services.

SECTION 3. IC 10-14-3.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

### **Chapter 3.5. Uniform Emergency Volunteer Health Practitioners Act**

**Sec. 1. As used in this chapter, "disaster relief organization" means an entity that provides emergency or disaster relief services that include health or veterinary services provided by volunteer health practitioners and:**

(1) is designated or recognized as a provider of the services under a disaster response and recovery plan adopted by an agency of the federal government or the state emergency management agency; or

(2) regularly plans and conducts the entity's activities in coordination with an agency of the federal government or the state emergency management agency.

Sec. 2. As used in this chapter, "emergency" means an event or condition that is an emergency, a disaster, or a public health emergency under this article.

Sec. 3. As used in this chapter, "emergency declaration" means a declaration of emergency issued by a person authorized to do so under state or local laws of Indiana.

Sec. 4. As used in this chapter, "Emergency Management Assistance Compact" means the federal interstate compact under P.L.104-321, 110 Stat. 3877.

Sec. 5. As used in this chapter, "entity" means a person other than an individual.

Sec. 6. As used in this chapter, "health facility" means an entity licensed under the laws of Indiana or another state to provide health or veterinary services.

Sec. 7. As used in this chapter, "health practitioner" means an individual licensed under the laws of Indiana or another state to provide health or veterinary services.

Sec. 8. As used in this chapter, "health services" means the provision of treatment, care, advice, guidance, or other services or supplies related to the health or death of individuals or human populations to the extent necessary to respond to an emergency, including:

(1) with respect to the physical or mental condition or functional status of an individual or the structure or function of the body:

- (A) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care; and
- (B) counseling, assessment, procedures, or other services;

(2) the sale or dispensing of a drug, a device, equipment, or another item to an individual in accordance with a prescription; and

(3) funeral, cremation, cemetery, or other mortuary services.

Sec. 9. As used in this chapter, "host entity" means an entity operating in Indiana that uses volunteer health practitioners to respond to an emergency.

Sec. 10. (a) As used in this chapter, "license" means authorization by a state to engage in health or veterinary services that are unlawful without the authorization.

(b) The term includes authorization under Indiana law to an individual to provide health or veterinary services based upon a national certification issued by a public or private entity.

Sec. 11. As used in this chapter, "person" means an individual, a corporation, a business trust, a trust, a partnership, a limited liability company, an association, a joint venture, a public corporation, a government or governmental subdivision, an agency, an instrumentality, or another legal or commercial entity.

Sec. 12. As used in this chapter, "scope of practice" means the extent of the authorization to provide health or veterinary services granted to a health practitioner by a license issued to the practitioner in the state in which the principal part of the practitioner's services are rendered, including conditions imposed by the licensing authority.

Sec. 13. As used in this chapter, "state" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or a territory or an insular possession subject to the jurisdiction of the United States.

Sec. 14. As used in this chapter, "veterinary services" means the provision of treatment, care, advice, guidance, or other services or supplies related to the health or death of an animal or to animal populations to the extent necessary to respond to an emergency, including:

(1) diagnosis, treatment, or prevention of an animal disease, injury, or other physical or mental condition by the prescription, administration, or dispensing of vaccine, medicine, surgery, or therapy;

(2) use of a procedure for reproductive management; and

(3) monitoring and treatment of animal populations for diseases that have spread or demonstrate the potential to spread to humans.

Sec. 15. (a) As used in this chapter, "volunteer health practitioner" means a health practitioner who provides health or veterinary services, whether or not the practitioner receives compensation for those services.

(b) The term does not include a practitioner who receives compensation under a preexisting employment relationship with a host entity or affiliate that requires the practitioner to provide health services in Indiana, unless the practitioner is not a resident of Indiana and is employed by a disaster relief organization providing services in Indiana while an emergency declaration is in effect.

Sec. 16. This chapter applies to volunteer health practitioners who:

(1) are registered with a registration system that complies with section 18 of this chapter; and

(2) provide health or veterinary services in Indiana for a host entity while an emergency declaration is in effect.

Sec. 17. (a) While an emergency declaration is in effect, the state emergency management agency may limit, restrict, or otherwise regulate:

(1) the duration of practice by volunteer health practitioners;

(2) the geographical areas in which volunteer health practitioners may practice;

(3) the types of volunteer health practitioners who may practice; and

(4) any other matters necessary to coordinate effectively the provision of health or veterinary services during the emergency.

(b) An order issued under subsection (a) may take effect immediately, without prior notice or comment, and is not a rule within the meaning of IC 4-22-2.

(c) A host entity that uses volunteer health practitioners to provide health or veterinary services in Indiana shall:

- (1) consult and coordinate the host entity's activities with the state emergency management agency to the extent practicable to provide for the efficient and effective use of volunteer health practitioners; and
- (2) comply with any laws other than this chapter relating to the management of emergency health or veterinary services, including this article.

**Sec. 18. (a)** To qualify as a volunteer health practitioner registration system, a system must:

- (1) accept applications for the registration of volunteer health practitioners before or during an emergency;
- (2) include information about the licensure and good standing of health practitioners that is accessible by authorized persons;
- (3) be capable of confirming the accuracy of information concerning whether a health practitioner is licensed and in good standing before health services or veterinary services are provided under this chapter; and

- (4) meet one (1) of the following conditions:

(A) Be an emergency system for advance registration of volunteer health practitioners established by a state and funded through the Health Resources Services Administration under section 319I of the federal Public Health Services Act, 42 U.S.C. 247d-7b.

(B) Be a local unit consisting of trained and equipped emergency response, public health, and medical personnel formed under section 2801 of the federal Public Health Services Act, 42 U.S.C. 300hh.

(C) Be operated by a:

- (i) disaster relief organization;
- (ii) licensing board;
- (iii) national or regional association of licensing boards or health practitioners;
- (iv) health facility that provides comprehensive inpatient and outpatient health care services, including a tertiary care and teaching hospital; or
- (v) governmental entity.

(D) Be designated by the state emergency management agency as a registration system for purposes of this chapter.

(b) While an emergency declaration is in effect, the state emergency management agency, a person authorized to act on behalf of the state emergency management agency, or a host entity may confirm whether volunteer health practitioners used in Indiana are registered with a registration system that complies with subsection (a). Confirmation is limited to obtaining identities of the practitioners from the system and determining whether the system indicates that the practitioners are licensed and in good standing.

(c) Upon request of a person in Indiana authorized under subsection (b), or a similarly authorized person in another state, a registration system located in Indiana shall notify the person of the identities of volunteer health practitioners and whether the practitioners are licensed and in good standing.

(d) A host entity is not required to use the services of a volunteer health practitioner even if the practitioner is registered with a registration system that indicates that the practitioner is licensed and in good standing.

**Sec. 19. (a)** While an emergency declaration is in effect, a volunteer health practitioner, registered with a registration system that complies with section 18 of this chapter and licensed and in good standing in the state upon which the practitioner's registration is based, may practice in Indiana to the extent authorized by this chapter as if the practitioner were licensed in Indiana.

(b) A volunteer health practitioner qualified under subsection (a) is not entitled to the protections of this chapter if the practitioner is licensed in more than one (1) state and any license of the practitioner is suspended, revoked, or subject to an agency order limiting or restricting practice privileges or has been voluntarily terminated under threat of sanction.

**Sec. 20. (a)** As used in this section:

(1) "credentialing" means obtaining, verifying, and assessing the qualifications of a health practitioner to provide treatment, care, or services in or for a health facility; and

(2) "privileging" means the authorizing by an appropriate authority, such as a governing body, of a health practitioner to provide specific treatment, care, or services at a health facility subject to limits based on factors that include license, education, training, experience, competence, health status, and specialized skill.

(b) This chapter does not affect credentialing or privileging standards of a health facility and does not preclude a health facility from waiving or modifying those standards while an emergency declaration is in effect.

**Sec. 21. (a)** Subject to subsections (b) and (c), a volunteer health practitioner shall adhere to the scope of practice for a similarly licensed practitioner established by the licensing provisions, practice acts, or other laws of Indiana.

(b) Except as provided in subsection (c), this chapter does not authorize a volunteer health practitioner to provide services that are outside the practitioner's scope of practice, even if a similarly licensed practitioner in Indiana would be permitted to provide the services.

(c) The state emergency management agency may modify or restrict the health or veterinary services that volunteer health practitioners may provide under this chapter. An order under this subsection may take effect immediately, without prior notice or comment, and is not a rule within the meaning of IC 4-22-2.

(d) A host entity may restrict the health or veterinary services that a volunteer health practitioner may provide under this chapter.

(e) A volunteer health practitioner does not engage in unauthorized practice unless the practitioner has reason to know of a limitation, modification, or restriction under this section or that a similarly licensed practitioner in Indiana would not be permitted to provide the services. A volunteer health practitioner has reason to know of a limitation,



modification, or restriction or that a similarly licensed practitioner in Indiana would not be permitted to provide a service if:

- (1) the practitioner knows the limitation, modification, or restriction exists or that a similarly licensed practitioner in Indiana would not be permitted to provide the service; or
- (2) from all the facts and circumstances known to the practitioner at the relevant time, a reasonable person would conclude that the limitation, modification, or restriction exists or that a similarly licensed practitioner in Indiana would not be permitted to provide the service.

(f) In addition to the authority granted by laws of Indiana other than this chapter to regulate the conduct of health practitioners, a licensing board or other disciplinary authority in Indiana:

- (1) may impose administrative sanctions upon a health practitioner licensed in Indiana for conduct outside of Indiana in response to an out-of-state emergency;
- (2) may impose administrative sanctions upon a practitioner not licensed in Indiana for conduct in Indiana in response to an in-state emergency; and
- (3) shall report any administrative sanctions imposed upon a practitioner licensed in another state to the appropriate licensing board or other disciplinary authority in any other state in which the practitioner is known to be licensed.

(g) In determining whether to impose administrative sanctions under subsection (f), a licensing board or other disciplinary authority shall consider the circumstances in which the conduct took place, including any exigent circumstances, and the practitioner's scope of practice, education, training, experience, and specialized skill.

Sec. 22. (a) This chapter does not limit the rights, privileges, or immunities provided to volunteer health practitioners by laws other than this chapter. Except as provided in subsection (b), this chapter does not affect requirements for the use of health practitioners under the Emergency Management Assistance Compact.

(b) The state emergency management agency, under the Emergency Management Assistance Compact or the Interstate Emergency Management and Disaster Compact, may incorporate into the emergency forces of Indiana volunteer health practitioners who are not officers or employees of Indiana, a political subdivision of Indiana, or a municipality or other local government within Indiana.

Sec. 23. The state emergency management agency may adopt rules under IC 4-22-2 to implement this chapter. In doing so, the state emergency management agency shall consult with and consider the recommendations of the entity established to coordinate the implementation of the Emergency Management Assistance Compact or the Interstate Emergency Management and Disaster Compact and shall also consult with and consider rules adopted by similarly empowered agencies in other states to promote uniformity of application of this chapter and make the emergency response systems in the various states reasonably

compatible.

Sec. 24. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 4. IC 12-7-2-118.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 118.3. "Initiative", for purposes of IC 12-31-2, has the meaning set forth in IC 12-31-2-1.

SECTION 5. IC 12-7-2-132.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 132.5. "Nonprofit corporation", for purposes of IC 12-31, has the meaning set forth in IC 12-31-1-1.

SECTION 6. IC 12-7-2-142.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 142.7. "Postnatal donation", for purposes of IC 12-31, has the meaning set forth in IC 12-31-1-2.

SECTION 7. IC 12-31 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

## **ARTICLE 31. UMBILICAL CORD BLOOD**

### **Chapter 1. Public Umbilical Cord Blood Bank**

Sec. 1. As used in this article, "nonprofit corporation" refers to the Indiana nonprofit corporation formed by the office of the secretary under section 3 of this chapter to establish and operate a public umbilical cord blood bank.

Sec. 2. As used in this article, "postnatal donation" means any of the following donations by a patient to the public umbilical cord blood bank:

- (1) Postnatal fluid, including umbilical cord blood.
- (2) Postnatal tissue, including the placenta and tissue extracted from an umbilical cord.

Sec. 3. (a) The office of the secretary shall form a nonprofit corporation to establish and provide for the operation of a public umbilical cord blood bank to promote public health and to exercise other essential governmental functions.

(b) The office of the secretary shall adopt rules under IC 4-22-2 concerning the protection of individual identifiable health information regarding the operation of the public umbilical cord blood bank.

Sec. 4. (a) The board of directors of the nonprofit corporation consists of the following:

- (1) The state health commissioner or the commissioner's designee.
- (2) The secretary or the secretary's designee.
- (3) The secretary of commerce appointed under IC 5-28-3-4 or the secretary's designee.
- (4) The director of the state department of health's office of minority health.
- (5) The following individuals appointed by the governor:

- (A) One (1) president or chief executive officer of an Indiana based hospital.
- (B) One (1) research scientist with expertise in umbilical cord blood research.

(C) One (1) ethicist with expertise in bioethics.

(D) One (1) physician licensed under IC 25-22.5 who specializes in birthing and delivery.

(E) One (1) representative of a donor umbilical cord blood bank facility.

(F) One (1) member of the interagency state council on black and minority health established under IC 16-46-6.

(b) The board of directors shall appoint an advisory board. At least fifty-one percent (51%) of the advisory board members must be research scientists with expertise in stem cell research.

(c) The advisory board, using criteria established by the board of directors, is responsible for reviewing applications from research scientists, research institutions, and other persons interested in receiving a postnatal donation that is ineligible for transplant use from the public umbilical cord blood bank.

(d) The board of directors may contract with a person to perform the management and administrative operations of the public umbilical cord blood bank. The person shall follow the federal Food and Drug Administration's current good tissue practices.

(e) Subject to approval by the budget agency, the board of directors may, without the approval of the attorney general, employ legal counsel, technical experts, and other officers, agents, and employees that the board of directors considers necessary to carry out the efficient operation of a public umbilical cord blood bank.

(f) The board of directors shall determine the terms and conditions of the participating agreement that is executed with each participating hospital.

**Sec. 5.** The nonprofit corporation shall do the following:

- (1) Establish procedures and guidelines for collecting, maintaining, and receiving postnatal donations.
- (2) Educate health care professionals about the procedures and requirements for collecting and maintaining postnatal donations following the birth of a newborn infant.
- (3) Establish procedures concerning patient informed consent and privacy that are approved by an independent institutional review board selected by the board of directors.

**Sec. 6. (a)** The nonprofit corporation shall accept postnatal donations at no charge or cost to the donor.

**(b)** The nonprofit corporation may allow the following to use the postnatal donations:

- (1) Transplant centers.
- (2) Research centers approved by the nonprofit corporation that will use the postnatal donation to promote medical advances, life science research, or biotechnology research.
- (3) Any other entity approved by the nonprofit corporation if the entity will use the postnatal donation to promote medical advances, life science research, or biotechnology research.

**(c)** Any postnatal donations maintained by the public umbilical cord blood bank must be allocated as follows:

(1) Postnatal donations that are of transplantable quality according to the National Marrow Donor Program, the federal Food and Drug Administration's approved protocol, or other relevant national practice and quality standards must be allocated for medical transplants.

(2) Postnatal donations that do not meet the transplant quality standards referred to in subdivision (1) and that are suitable for research must be made available for scientific research or medical treatments that comply with relevant national practice and quality standards.

**(d)** The nonprofit corporation shall acquire and maintain adequate liability insurance coverage.

**Sec. 7.** The nonprofit corporation may maintain postnatal donations at no charge or cost to the donor.

**Sec. 8.** The nonprofit corporation may award a grant to a person for work with postnatal donations.

**Sec. 9.** The nonprofit corporation shall report annually to the health finance commission established by IC 2-5-23-3 concerning the following:

- (1) The implementation of the umbilical cord blood bank.
- (2) The number of postnatal donations used for transplants and the number of postnatal donations used for research.

## **Chapter 2. Umbilical Cord Blood Donation Initiative**

**Sec. 1.** As used in this chapter, "initiative" refers to the umbilical cord blood donation initiative established under section 2 of this chapter.

**Sec. 2.** The nonprofit corporation shall establish an umbilical cord blood donation initiative to promote public awareness concerning the following:

- (1) A pregnant woman's option to make a postnatal donation upon the birth of a newborn infant.
- (2) The medical benefits of postnatal tissue and postnatal fluids.
- (3) The importance of donating umbilical cord blood to the public umbilical cord blood bank.

**Sec. 3.** The nonprofit corporation may accept a grant from the federal government or money from the state government or private contributions to establish and implement the initiative.

**Sec. 4. (a)** The initiative must include the dissemination of written material that includes the following:

- (1) Information concerning the option that is available to pregnant women to make a postnatal donation upon the birth of a newborn infant.
- (2) An explanation of the benefits of public umbilical cord blood banking.
- (3) The benefits of umbilical cord blood in accordance with the National Marrow Donor Program or another federal Food and Drug Administration approved protocol and the use of umbilical cord blood for medical treatment, including the following:

(A) A list of the diseases or conditions that have been treated through the use of umbilical cord blood.

(B) A list of the diseases or conditions for which scientific research indicates that treatment through

the use of umbilical cord blood is promising.

(4) Information on the public umbilical cord blood bank.

(5) Information concerning the process by which postnatal tissue and postnatal fluid are collected and the steps that a pregnant woman must take before her child is born to arrange to have the postnatal tissue and postnatal fluid collected and donated.

(b) The nonprofit corporation shall:

(1) update the material described in subsection (a); and  
(2) distribute the material to the following persons that treat pregnant women:

(A) Physicians licensed under IC 25-22.5.

(B) Participating hospitals.

(C) Ambulatory surgical centers.

(D) Health clinics.

(E) Maternity homes registered under IC 16-26-1.

(F) Nurse midwives licensed under IC 25-23-1-13.1.

**Sec. 5.** The nonprofit corporation shall develop a process for physicians, nurse midwives, birthing centers, and participating hospitals to inform eligible candidates of the opportunity to make postnatal donations to the public umbilical cord blood bank following delivery of a newborn infant.

**Sec. 6.** The nonprofit corporation that establishes the initiative described in this chapter must meet all the requirements and responsibilities set forth in IC 23-17.

**Sec. 7. (a)** Any intellectual property developed by the nonprofit corporation establishing the initiative under this chapter is the property of the nonprofit corporation. A donor must consent to release to the public umbilical cord blood bank any property right related to the postnatal donation, including any claim of intellectual property rights derived from the postnatal donation.

(b) The entire right, title, and interest in and to any intellectual property derived from a postnatal donation transfers with the postnatal tissue and postnatal fluid after the postnatal donation is allocated by the public umbilical cord blood bank for research purposes.

SECTION 8. IC 16-18-2-36.5, AS ADDED BY P.L.96-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 36.5. (a) "Birthing center", for purposes of IC 16-21-2 and IC 16-21-7.5, means a freestanding entity that has the sole purpose of delivering a normal or uncomplicated pregnancy.

(b) The term does not include a hospital that is licensed as a hospital under IC 16-21-2."

Page 2, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 10. IC 16-21-7.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

**Chapter 7.5. Hospital and Birthing Center Requirement Regarding Umbilical Cord Blood Donation**

**Sec. 1.** As used in this chapter, "postnatal donation" has the meaning set forth in IC 12-31-1-2.

**Sec. 2.** Before a hospital or birthing center participates in collecting donations for the public umbilical cord blood bank

established under IC 12-31-1-3(a), the hospital or birthing center shall enter into a written agreement with the public umbilical cord blood bank establishing the:

(1) conditions of the hospital's or birthing center's participation; and

(2) obligations of the hospital or birthing center; in the umbilical cord blood donation initiative established under IC 12-31-2-2.

**Sec. 3. (a)** Except as provided in section 4 of this chapter, a participating hospital or birthing center licensed under this article must offer a patient who delivers a newborn infant at the participating hospital or birthing center the option of making a postnatal donation following delivery of the newborn infant.

(b) A patient may not be charged for the collection, storage, or donation to the public umbilical cord blood bank established under IC 12-31-1-3(a).

**Sec. 4. (a)** A participating hospital or birthing center is not required to collect a postnatal donation if either of the following applies:

(1) In the professional judgment of a physician licensed under IC 25-22.5 or a nurse midwife licensed under IC 25-23-1-13.1, the collection would threaten the health of the mother or the infant.

(2) The postnatal donation is contrary to the moral principles or beliefs of the religious denomination with which the participating hospital or birthing center is affiliated.

(b) An employee of a participating hospital or birthing center is not required to collect a postnatal donation if the postnatal donation is contrary to the religious principles or beliefs of the employee.

**Sec. 5.** A participating hospital or birthing center shall cooperate with the nonprofit corporation (as defined in IC 12-31-1-1) in accomplishing the public health goal of maximizing postnatal donations.

**Sec. 6.** A hospital or birthing center is not required to enter into an agreement with the public umbilical cord blood bank and may enter into contracts concerning postnatal tissue and postnatal fluids with any person."

Page 4, line 1, strike "provide school based health".

Page 4, line 1, after "nursing" insert "furnish health and nursing".

Page 4, line 1, delete ".".

Page 4, line 2, after "county." insert "to elementary and secondary schools within the county."

Page 6, delete lines 10 through 42.

Page 7, delete lines 1 through 8.

Page 8, line 4, delete "licensed".

Page 8, line 4, after "nurse" insert "licensed under IC 25-23 or a physician licensed under IC 25-22.5".

Page 8, delete lines 36 through 41, begin a new paragraph and insert:

"SECTION 18. IC 25-2.5-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) An applicant may, upon the payment of a fee established by the board, be granted a license if the applicant:

(1) submits satisfactory evidence to the board that the applicant has been licensed to practice acupuncture in another state or authorized in another country under qualifications substantially equivalent to those specified in this chapter for a license to practice acupuncture;

(2) meets the requirements of section 1(1) through 1(4) of this chapter; and

(3) shows to the satisfaction of the board that the applicant has:

(A) successfully completed a clean needle technique course substantially equivalent to a clean needle technique course approved by a national acupuncture association approved by the board;

(B) successfully completed a three (3) year postsecondary training program or acupuncture college program that meets the standards substantially equivalent to the standards for a three (3) year postsecondary training program or acupuncture college program approved by a national acupuncture association approved by the board; and

(C) passed an examination substantially equivalent to the examination required by a national acupuncture association approved by the board.

(b) An applicant may, upon the payment of a fee established by the board, be granted a professional's license to practice acupuncture if the applicant submits satisfactory evidence to the board that the applicant is a:

- (1) chiropractor licensed under IC 25-10;
- (2) dentist licensed under IC 25-14; or
- (3) podiatrist licensed under IC 25-29;

with at least two hundred (200) hours of acupuncture training.

(c) The board shall:

- (1) compile, at least once every two (2) years, a list of courses and institutions that provide training approved for the purpose of qualifying an individual for a professional's license under subsection (b); and
- (2) adopt rules that set forth procedures for the case by case approval of training under subsection (b).

(d) If an individual's license described in subsection (b)(1), (b)(2), or (b)(3) is subject to any restrictions as the result of disciplinary action taken against the individual by the board that regulates the individual's profession, the same restrictions shall be applied to the individual's professional's license to practice acupuncture.

(e) An individual's professional's license issued under subsection (b) shall be suspended if the individual's license described under subsection (b)(1), (b)(2), or (b)(3) is suspended.

(f) An individual's professional's license issued under subsection (b) shall be revoked if the individual's license described under subsection (b)(1), (b)(2), or (b)(3) is revoked.

(g) The practice of acupuncture by an individual issued a professional's license under subsection (b) is limited to the scope of practice of the individual's license described in subsection (b)(1), (b)(2), or (b)(3)."

Page 9, line 1, reset in roman "(a) Subject to section".

Page 9, reset in roman lines 2 through 3.

Page 9, line 20, after "(d)" insert "(b)".

Page 10, line 13, delete "." and insert "by the dental

hygienist."

Page 10, line 16, delete ", when" and insert "by the dental hygienist if".

Page 10, line 23, after "setting" insert ", except as described in subdivisions (3) through (5),".

Page 10, line 27, delete "." and insert "if direct supervision by a licensed dentist is provided for training on providing local anesthetics by injection."

Page 11, line 27, after "Sec. 10.6." insert "(a)".

Page 11, line 30, delete "requirements;" and insert "requirements, including cardiopulmonary resuscitation and emergency care training;"

Page 11, between lines 31 and 32, begin a new paragraph and insert:

"(b) Local dental anesthetics do not include nitrous oxide or similar anesthetics."

Page 12, line 6, delete "anesthetics under section 10.6 of" and insert "anesthetics, except for the administration of local dental anesthetics by:

(A) a dentist as provided in IC 25-14-1-23(a)(6); or

(B) a physician licensed under IC 25-22.5."

Page 12, delete line 7.

Page 12, line 23, delete "." and insert "by the dental assistant."

Page 13, line 9, delete "," and insert "and IC 25-13-1-10.6,".

Page 15, line 28, delete "IC 25-13-1(3)," and insert "IC 25-13-1-11(3),".

Page 16, line 1, delete ":" and insert "if the person has received training in the performance of hypnotism:".

Page 19, line 11, delete "IC 25-23.3." and insert "IC 25-23.2 (repealed)."

Page 19, between lines 11 and 12, begin a new line block indented and insert:

"(5) If requested by the nonprofit corporation formed under IC 12-31-1-3, provide assistance to the public umbilical cord blood bank and umbilical cord blood donation initiative."

Page 24, delete lines 34 through 42.

Page 25, delete line 1.

Page 25, line 2, delete "Sec. 7." and insert "Sec. 6.".

Page 25, line 4, delete "Sec. 8." and insert "Sec. 7.".

Page 25, line 6, delete "board or" and insert "board,".

Page 25, line 7, delete "other authority,".

Page 25, line 10, delete "Sec. 9." and insert "Sec. 8.".

Page 25, line 12, delete "Sec. 10." and insert "Sec. 9.".

Page 25, line 19, delete "Sec. 11." and insert "Sec. 10.".

Page 25, line 22, delete "Sec. 12." and insert "Sec. 11.".

Page 25, line 24, delete "Sec. 13." and insert "Sec. 12.".

Page 25, line 31, delete "Sec. 14." and insert "Sec. 13.".

Page 25, line 40, delete "Sec. 15." and insert "Sec. 14.".

Page 26, line 1, delete "Sec. 16." and insert "Sec. 15.".

Page 27, line 40, delete "remote state actions," and insert "disciplinary actions taken by the licensing entity or complaints filed by the attorney general,".

Page 27, line 42, delete "current significant" and insert "disciplinary actions taken by the licensing entity or complaints filed by the remote state's attorney general.".

Page 28, line 1, delete "investigative information yet to result in a remote state action."

Page 29, line 18, delete "Notwithstanding any other law, all" and insert "All".

Page 29, line 19, delete "adverse actions,".

Page 29, line 20, delete "any current significant investigative".

Page 29, line 21, delete "information yet to result in adverse action," and insert "disciplinary actions taken by the licensing entity or complaints filed by the remote state's attorney general,".

Page 29, delete lines 24 through 26.

Page 29, line 27, delete "Sec. 4. Notwithstanding any other law, all" and insert "Sec. 3. All".

Page 29, line 33, delete "Sec. 5." and insert "Sec. 4.".

Page 29, line 39, delete "Sec. 6." and insert "Sec. 5.".

Page 30, line 2, delete "Sec. 7." and insert "Sec. 6.".

Page 31, line 12, delete "is" and insert "are".

Page 32, between lines 40 and 41, begin a new paragraph and insert:

"(c) Subsections (a)(4) and (b)(4) do not apply to a person who is specified under section 2 of this chapter."

Page 38, line 17, after "marriage" insert "and family".

Page 41, line 1, delete "Interstate" and insert "interstate".

Page 41, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 50. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

(b) Before July 1, 2008, the office shall apply to the United States Department of Health and Human Services for an amendment to the state Medicaid plan to provide coverage for adults and children for medically necessary umbilical cord transplants and other related procedures under the state Medicaid program (IC 12-15) if the Medicaid recipient's provider receives prior approval for the procedure from the office.

(c) The office may not implement the plan amendment until the office files an affidavit with the governor attesting that the plan amendment applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the plan amendment is approved.

(d) If the office receives a plan amendment under this SECTION from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection (c), the office shall implement the plan amendment not more than sixty (60) days after the governor receives the affidavit.

(e) The office may adopt rules under IC 4-22-2 necessary to implement this SECTION.

(f) This SECTION expires December 31, 2013.

SECTION 51. [EFFECTIVE JULY 1, 2008] (a) The office of the secretary of family and social services shall adopt the rules required by IC 12-31-1-3(b), as added by this act, in the manner provided in IC 4-22-2-37.1. The office shall immediately begin the adoption of the rules and shall adopt the final rules before March 1, 2009.

(b) This SECTION expires July 1, 2009.

SECTION 52. [EFFECTIVE JULY 1, 2008] (a) As used in this SECTION, "commission" refers to the health finance commission established by IC 2-5-23-3.

(b) Not later than October 1, 2008, the state police department shall report to the commission and legislative council in an electronic format under IC 5-14-6 concerning any changes the federal government has made in criminal background check procedures.

(c) This SECTION expires December 31, 2008.

SECTION 53. [EFFECTIVE JULY 1, 2008] (a) This SECTION applies beginning July 1, 2008, and ending June 30, 2009.

(b) Notwithstanding any other law and except as provided in subsection (c), a person who operates a home health agency under IC 16-27-1 or a personal services agency under IC 16-27-4 shall apply, not more than three (3) business days after the date that an employee begins to provide services in a patient's temporary or permanent residence, for a copy of the employee's limited criminal history under IC 10-13-3.

(c) If a home health agency or personal services agency determines an employee lived outside Indiana at any time during the two (2) years immediately before the date the individual was hired by the agency, the home health agency or personal services agency shall apply, not more than three (3) business days after the date that an employee begins to provide services in a patient's temporary or permanent residence, for the employee's national criminal history background check from the Indiana central repository for criminal history information under IC 10-13-3-39.

(d) This SECTION expires June 30, 2009."

Renumber all SECTIONS consecutively.

(Reference is to HB 1172 as printed January 25, 2008.) and when so amended that said bill do pass.

Committee Vote: Yeas 9, Nays 0.

MILLER, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Engrossed House Bill 1062, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 4, between lines 30 and 31, begin a new paragraph and insert:

"SECTION 5. IC 36-2-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) The sheriff shall:

- (1) arrest without process persons who commit an offense within the sheriff's view, take them before a court of the county having jurisdiction, and detain them in custody until the cause of the arrest has been investigated;
- (2) suppress breaches of the peace, calling the power of the county to the sheriff's aid if necessary;
- (3) pursue and jail felons;

- (4) execute all process directed to the sheriff by legal authority;
- (5) serve all process directed to the sheriff from a court or the county executive;
- (6) attend and preserve order in all courts of the county;
- (7) take care of the county jail and the prisoners there;
- (8) take photographs, fingerprints, and other identification data as the sheriff shall prescribe of persons taken into custody for felonies or misdemeanors; and
- (9) on or before January 31 and June 30 of each year, provide to the department of correction the average daily cost of incarcerating a prisoner in the county jail as determined under the methodology developed by the department of correction under IC 11-10-13.

(b) A person who:

- (1) refuses to be photographed;
- (2) refuses to be fingerprinted;
- (3) withholds information; or
- (4) gives false information;

as prescribed in subsection (a)(8), commits a Class C misdemeanor.

**(c) The sheriff may supervise and inspect all pawnbrokers, vendors, junkshop keepers, cartmen, expressmen, dealers in secondhand merchandise, intelligence offices, and auctions. The sheriff may authorize any deputy in writing to exercise the same powers."**

Page 5, line 12, after "precinct", delete "," and insert "or district,".

Page 5, between lines 17 and 18, begin a new paragraph and insert:

**"SECTION 7. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "sentencing policy study committee" refers to the committee established by P.L.216-2007, SECTION 56.**

**(b) The legislative council shall assign to the sentencing policy study committee for study the topic of the theft of salvaged material, including valuable metals and architectural salvage material. The legislative council shall instruct the sentencing policy study committee to specifically examine the effectiveness of enforcement mechanisms in combating the theft of valuable metals, architectural salvage materials, and other salvaged materials. The sentencing policy study committee may examine any other issue related the theft of salvaged material.**

(c) This SECTION expires November 1, 2008."

Renumber all SECTIONS consecutively.

(Reference is to HB 1062 as printed January 18, 2008.)

and when so amended that said bill do pass.

Committee Vote: Yeas 7, Nays 0.

STEELE, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Engrossed House Bill 1074, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, line 10, delete "." and insert ";".

Page 1, between lines 10 and 11, begin a new line block indented and insert **"who is required to carry a firearm in performance of the person's official duties."**

Page 5, delete lines 15 through 42.

Delete pages 6 through 14.

(Reference is to HB 1074 as reprinted January 25, 2008.) and when so amended that said bill do pass.

Committee Vote: Yeas 7, Nays 0.

STEELE, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Engrossed House Bill 1271, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 9.

Page 4, delete lines 29 through 31.

Renumber all SECTIONS consecutively.

(Reference is to HB 1271 as reprinted January 29, 2008.) and when so amended that said bill do pass.

Committee Vote: Yeas 7, Nays 0.

STEELE, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred Engrossed House Bill 1318, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, line 6, after "IC 9-29-5-1;" insert **"and"**.

Page 1, delete lines 8 through 17.

Page 2, line 1, delete "fifty cents (\$0.50)" and insert **"thirty cents (\$0.30)"**.

Page 2, line 3, delete "(c)".

Page 2, line 3, delete "subsection (b)" and insert **"this subsection"**.

Page 2, run in lines 2 through 3.

Page 2, between lines 4 and 5, begin a new paragraph and insert:

**"(c) In addition to the fees to be collected for the registration of a truck greater than zero (0) pounds declared gross weight but equal to or less than ten thousand (10,000) pounds declared gross weight, as set forth in section 3 of this chapter, the bureau shall collect an additional fee of thirty cents (\$0.30) at the time of the registration. The fee collected under this subsection shall be deposited into the spinal cord and brain injury fund under IC 16-41-42.2-3."**

Page 2, line 7, delete "fifty" and insert **"thirty"**.

Page 2, line 8, delete "(\$12.50)," and insert **"(\$12.30),"**.

Page 2, line 20, strike "under IC 16-41-42-4." and insert **"established by IC 16-41-42.2-3."**

Page 2, line 30, delete "Fifty cents (\$0.50)" and insert **"Thirty**

cents (\$0.30)".

Page 3, line 19, delete "fifty cents (\$0.50)" and insert "**thirty cents (\$0.30)**".

Page 3, line 20, delete "as set forth in section" and insert "**for a truck greater than zero (0) pounds declared gross weight but equal to or less than ten thousand (10,000) pounds declared gross weight.**

SECTION 5. IC 16-41-42.2-3, AS ADDED BY HEA 1137-2008, SECTION 113, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The spinal cord and brain injury fund is established to fund research on spinal cord and brain injuries.

(b) The fund shall be administered by the state department.

(c) The fund consists of:

- (1) appropriations;
- (2) gifts and bequests;
- (3) fees deposited in the fund ~~under IC 9-29-5-2, by law;~~ and
- (4) grants received from the federal government or private sources.

(d) The expenses of administering the fund shall be paid from money in the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) The money in the fund is continually appropriated to the state department to fund spinal cord and brain injury research programs."

Page 3, delete lines 21 through 42.

Delete pages 4 through 5.

Page 6, delete lines 1 through 19.

Re-number all SECTIONS consecutively.

(Reference is to HB 1318 as printed January 25, 2008.)

and when so amended that said bill do pass.

Committee Vote: Yeas 9, Nays 0.

WYSS, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Engrossed House Bill 1042, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, line 4, delete "Materials," and insert "**Materials**".

Page 1, delete line 5.

Page 1, line 6, after "Sec. 1." insert "**This chapter does not apply to a person who sells sexually explicit materials on June 30, 2008, unless the person changes the person's business location after June 30, 2008.**

**Sec. 2."**

Page 1, line 6, delete "person, firm, corporation, association, partnership," and insert "**person (as defined in IC 35-41-1-22)**".

Page 1, line 7, delete "limited liability corporation, or other entity".

Page 1, line 7, after "to" insert "**offer for sale or**".

Page 1, line 8, delete "materials, products, or services" and insert "**materials**".

Page 1, line 9, after "to" insert "**offer for sale or**".

Page 1, line 9, delete "materials," and insert "**materials**".

Page 1, line 10, delete "products, or services".

Page 1, line 11, delete "materials, products, or services" and insert "**materials**".

Page 1, line 11, delete "are intended to be sold." and insert "**the person intends to offer for sale or sell.**".

Page 1, line 12, delete "Sec. 2." and insert "**Sec. 3.**".

Page 1, line 15, delete "business" and insert "**person**".

Page 1, line 15, delete "1" and insert "**2**".

Page 1, line 17, delete "All local zoning boards that have jurisdiction in the" and insert "**A local entity that supervises a zoning board in the county.**".

Page 2, delete line 1.

Page 2, line 2, delete "1" and insert "**2**".

Page 2, line 4, delete "an entity" and insert "**a person**".

Page 2, line 4, delete "1" and insert "**2**".

Page 2, line 5, after "to" insert "**offer for sale or**".

Page 2, line 5, delete "materials, products, or services" and insert "**materials**".

Page 2, line 6, delete "1" and insert "**2**".

Page 2, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 2. IC 23-18-12-3, AS AMENDED BY P.L.60-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) Except as provided in subsection (e), the secretary of state shall collect the following fees when the documents described in this section are delivered for filing:

| Document  | Fee    |
|---|--------|
| (1) Articles of organization  | \$90   |
| (2) Application for use of indistinguishable name                       | \$20   |
| (3) Application for reservation of name                                 | \$20   |
| (4) Application for renewal of reservation                              | \$20   |
| (5) Notice of transfer or cancellation of reservation                   | \$20   |
| (6) Application of registered name                                      | \$30   |
| (7) Application for renewal of registered name                          | \$30   |
| (8) Certificate of change of registered agent's business address        | No Fee |
| (9) Certificate of resignation of agent                                 | No Fee |
| (10) Articles of amendment  | \$30   |
| (11) Restatement of articles of organization                            | \$30   |
| (12) Articles of dissolution  | \$30   |
| (13) Application for certificate of authority                           | \$90   |
| (14) Application for amended certificate of authority                   | \$30   |
| (15) Application for certificate of withdrawal                          | \$30   |
| (16) Application for reinstatement following administrative dissolution | \$30   |

|   |              |
|---|--------------|
| (17) Articles of correction   | \$30         |
| (18) Certificate of change of registered agent  | No Fee       |
| (19) Application for certificate of existence or authorization                                | \$15         |
| (20) Biennial report filed in writing, including by facsimile                                 | \$30         |
| (21) Biennial report filed by electronic medium   | \$20         |
| (22) Articles of merger involving a domestic limited liability company                        | \$90         |
| (23) Any other document required or permitted to be filed under this article                  | \$30         |
| <b>(24) Registration of intent to sell sexually explicit materials, products, or services</b> | <b>\$250</b> |

(b) The fee set forth in subsection (a)(20) for filing a biennial report is fifteen dollars (\$15) per year, to be paid biennially.

(c) The secretary of state shall collect a fee of \$10 each time process is served on the secretary of state under this article. If the party to a proceeding causing service of process prevails in the proceeding, that party is entitled to recover this fee as costs from the nonprevailing party.

(d) The secretary of state shall collect the following fees for copying and certifying the copy of any filed documents relating to a domestic or foreign limited liability company:

(1) One dollar (\$1) per page for copying.

(2) Fifteen dollars (\$15) for certification stamp.

(e) If the document described in subsection (a)(1) or (a)(13) is filed by electronic means as prescribed by the secretary of state, the secretary of state shall collect a filing fee of seventy-five dollars (\$75)."

Page 2, line 10, delete "and Services".

Page 2, line 11, delete "means an individual, a" and insert **"has the meaning set forth in IC 35-41-1-22."**

Page 2, delete lines 12 through 13.

Page 2, line 14, delete "For purposes of this chapter, materials, products, or" and insert **"As used in this chapter, "sexually explicit materials" means a product or service:**

**(1) that is harmful to minors (as described in IC 35-49-2-2), even if the product or service is not intended to be used by or offered to a minor; or**

**(2) that is designed for use in, marketed primarily for, or provides for:**

**(A) the stimulation of the human genital organs; or**  
**(B) masochism or a masochistic experience, sadism or a sadistic experience, sexual bondage, or sexual domination."**

Page 2, delete lines 15 through 28.

Page 2, line 31, after "a" insert ":

**(A)".**

Page 2, line 33, delete "8-1-32.6-3)." and insert **"8-1-32.6-3);**

**(B) physician; or**

**(C) public or nonpublic school."**

Page 2, line 34, after "not" insert **"offer for sale or"**.

Page 2, line 35, delete "materials, products, or services" and insert **"materials"**.

Page 2, line 39, delete "violates" and insert **"offers for sale or sells sexually explicit materials in violation of"**.

Page 2, line 39, after "commits" insert **"unregistered sale of sexually explicit materials,"**.

Renumber all SECTIONS consecutively.

(Reference is to HB 1042 as reprinted January 30, 2008.)

and when so amended that said bill do pass.

Committee Vote: Yeas 6, Nays 0.

STEELE, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Engrossed House Bill 1113, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 7, Nays 0.

STEELE, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Engrossed House Bill 1134, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 2, line 4, delete "IC 34-42-4-12." and insert **"IC 35-42-4-12."**

Page 2, delete lines 5 through 42.

Delete pages 3 through 7.

Page 8, delete lines 1 through 17, begin a new paragraph and insert:

**"SECTION 5. IC 11-8-8-3, AS AMENDED BY P.L.216-2007, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. As used in this chapter, "principal residence" means the residence or location where a sex or violent offender spends the most time. The term includes a residence owned or leased by another person if the sex or violent offender:**

**(1) does not own or lease a residence; or**

**(2) spends more time at the residence owned or leased by the other person than at the residence owned or leased by the sex or violent offender.**

**SECTION 6. IC 11-8-8-4.5, AS ADDED BY P.L.216-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.5. (a) Except as provided in section 22 of this chapter, as used in this chapter, "sex offender" means a person convicted of any of the following offenses:**

**(1) Rape (IC 35-42-4-1).**

**(2) Criminal deviate conduct (IC 35-42-4-2), including criminal deviate conduct committed in a correctional facility.**

**(3) Child molesting (IC 35-42-4-3).**

**(4) Child exploitation (IC 35-42-4-4(b)).**

**(5) Vicarious sexual gratification (including performing sexual conduct in the presence of a minor) (IC 35-42-4-5).**

**(6) Child solicitation (IC 35-42-4-6).**



- (7) Child seduction (IC 35-42-4-7).
- (8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC 35-42-4-9), unless:
  - (A) the person is convicted of sexual misconduct with a minor as a Class C felony;
  - (B) the person is not more than:
    - (i) four (4) years older than the victim if the offense was committed after June 30, 2007; or
    - (ii) five (5) years older than the victim if the offense was committed before July 1, 2007; and
  - (C) the sentencing court finds that the person should not be required to register as a sex offender.
- (9) Incest (IC 35-46-1-3).
- (10) Sexual battery (IC 35-42-4-8).
- (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian.
- (12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, and the person who confined or removed the victim is not the victim's parent or guardian.
- (13) Possession of child pornography (IC 35-42-4-4(c)).
- (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony.
- (15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the victim is less than eighteen (18) years of age.
- (16) Sexual trafficking of a minor (IC 35-42-3.5-1(b)).
- (17) Human trafficking (IC 35-42-3.5-1(c)(3)) if the victim is less than eighteen (18) years of age.
- (18) An attempt or conspiracy to commit a crime listed in subdivisions (1) through (17).
- (19) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (18).

(b) The term includes:

- (1) a person who is required to register as a sex offender in any jurisdiction; and
- (2) a child who has committed a delinquent act and who:
  - (A) is at least fourteen (14) years of age;
  - (B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and
  - (C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

(c) In making a determination under subsection (b)(2)(C), the court shall consider expert testimony concerning whether a child is likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

SECTION 7. IC 11-8-8-4.6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4.6. (a) Except as provided in section 22 of this chapter, as used in this chapter, "tier III**

**sex offender"** means a person convicted of any of the following offenses:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2).
- (3) Child molesting under:
  - (A) IC 35-42-4-3(a); or
  - (B) IC 35-42-4-3(b) as a Class A felony.
- (4) Vicarious sexual gratification (including performing sexual conduct in the presence of a minor) under IC 35-42-4-5 if the victim is less than fourteen (14) years of age.
- (5) Sexual misconduct with a minor under:
  - (A) IC 35-42-4-9(a)(2); or
  - (B) IC 35-42-4-9(b)(2).
- (6) Sexual battery (IC 35-42-4-8) if the victim is less than fourteen (14) years of age.
- (7) Incest (IC 35-46-1-3) if the victim is less than sixteen (16) years of age.
- (8) Kidnapping (IC 35-42-3-2) if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian.
- (9) Criminal confinement (IC 35-42-3-3) if the victim is less than eighteen (18) years of age, and the person who confined or removed the victim is not the victim's parent or guardian.
- (10) An attempt or conspiracy to commit a crime listed in subdivisions (1) through (9).
- (11) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (10).

(b) The term includes the following:

- (1) A sexually violent predator (as defined in IC 35-38-1-7.5).
- (2) A tier II sex offender who is convicted of a subsequent sex offense.
- (3) A tier II sex offender who is convicted of failure to register under section 17 of this chapter.

(c) A person convicted of an offense described in this section is a tier III sex offender by operation of law if one (1) or more of the following conditions apply:

- (1) The person was required to register as a sex or violent offender in Indiana on June 30, 2008.
- (2) After June 30, 2008, the person is:
  - (A) incarcerated, on probation, on parole, on home detention, in a community corrections program, or under another form of supervision imposed as the result of the person's conviction for any offense; or
  - (B) released from incarceration, probation, parole, home detention, a community corrections program, or another form of supervision imposed as the result of the person's conviction for any offense.
- (3) The person commits the offense after June 30, 2008.

SECTION 8. IC 11-8-8-4.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4.7. (a) Except as provided in section 22 of this chapter, as used in this chapter, "tier II**

sex offender" means a sex offender convicted of any of the following offenses:

- (1) Child molesting (IC 35-42-4-3(b)) as a Class C felony.
  - (2) Child exploitation (IC 35-42-4-4(b)).
  - (3) Vicarious sexual gratification (IC 35-42-4-5(a)) as a Class D felony if the victim is thirteen (13) years of age or older.
  - (4) Child solicitation (IC 35-42-4-6).
  - (5) Child seduction (IC 35-42-4-7).
  - (6) Sexual battery (IC 35-42-4-8) if the victim is at least fourteen (14) years of age but less than eighteen (18) years of age.
  - (7) Sexual misconduct with a minor under IC 35-42-4-9(a)(1) or IC 35-42-4-9(b)(1), unless:
    - (A) the person is convicted of sexual misconduct with a minor as a Class C felony;
    - (B) the person is not more than:
      - (i) four (4) years older than the victim if the offense was committed after June 30, 2007; or
      - (ii) five (5) years older than the victim if the offense was committed before July 1, 2007; and
    - (C) the sentencing court finds that the person should not be required to register as a sex offender.
  - (8) Incest (IC 35-46-1-3) if the victim is sixteen (16) years of age or older.
  - (9) Promoting prostitution (IC 35-45-4-4) as a Class B felony.
  - (10) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the victim is less than eighteen (18) years of age.
  - (11) Sexual trafficking of a minor (IC 35-42-3.5-1(b)).
  - (12) Human trafficking (IC 35-42-3.5-1(c)(3)) if the victim is less than eighteen (18) years of age.
  - (13) An attempt or conspiracy to commit a crime listed in subdivisions (1) through (12).
  - (14) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (13).
- (b) The term includes the following:
- (1) A tier I sex offender who is convicted of a subsequent sex offense.
  - (2) A tier I sex offender who is convicted of failure to register under section 17 of this chapter.
- (c) A person convicted of an offense described in this section is a tier II sex offender by operation of law if one (1) or more of the following conditions apply:
- (1) The person was required to register as a sex or violent offender in Indiana on June 30, 2008.
  - (2) After June 30, 2008, the person is:
    - (A) incarcerated, on probation, on parole, on home detention, in a community corrections program, or under another form of supervision imposed as the result of the person's conviction for any offense; or
    - (B) released from incarceration, probation, parole, home detention, a community corrections program, or another form of supervision imposed as the result

of the person's conviction for any offense.

(3) The person commits the offense after June 30, 2008.

SECTION 9. IC 11-8-8-4.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4.8. (a) As used in this chapter, "tier I sex offender" means a sex offender who is not a tier III sex offender or a tier II sex offender.

(b) A person convicted of an offense referred to in section 4.5 of this chapter but not referred to in section 4.6 or 4.7 of this chapter is a tier I sex offender by operation of law if one (1) or more of the following conditions apply:

(1) The person was required to register as a sex or violent offender in Indiana on June 30, 2008.

(2) After June 30, 2008, the person is:

- (A) incarcerated, on probation, on parole, on home detention, in a community corrections program, or under another form of supervision imposed as the result of the person's conviction for any offense; or
- (B) released from incarceration, probation, parole, home detention, a community corrections program, or another form of supervision imposed as the result of the person's conviction for any offense.

(3) The person commits the offense after June 30, 2008.

SECTION 10. IC 11-8-8-5, AS AMENDED BY P.L.216-2007, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) Except as provided in section 22 of this chapter, as used in this chapter, "sex or" "violent offender" means a person convicted of any of the following offenses:

- (1) Rape (IC 35-42-4-1);
- (2) Criminal deviate conduct (IC 35-42-4-2);
- (3) Child molesting (IC 35-42-4-3);
- (4) Child exploitation (IC 35-42-4-4(b));
- (5) Vicarious sexual gratification (including performing sexual conduct in the presence of a minor) (IC 35-42-4-5);
- (6) Child solicitation (IC 35-42-4-6);
- (7) Child seduction (IC 35-42-4-7);
- (8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC 35-42-4-9); unless:
  - (A) the person is convicted of sexual misconduct with a minor as a Class C felony;
  - (B) the person is not more than:
    - (i) four (4) years older than the victim if the offense was committed after June 30, 2007; or
    - (ii) five (5) years older than the victim if the offense was committed before July 1, 2007; and
  - (C) the sentencing court finds that the person should not be required to register as a sex offender.
- (9) Incest (IC 35-46-1-3);
- (10) Sexual battery (IC 35-42-4-8);
- (11) Kidnapping (IC 35-42-3-2); if the victim is less than eighteen (18) years of age; and the person who kidnapped the victim is not the victim's parent or guardian;
- (12) Criminal confinement (IC 35-42-3-3); if the victim is less than eighteen (18) years of age; and the person who confined or removed the victim is not the victim's parent or guardian;
- (13) Possession of child pornography (IC 35-42-4-4(c)).

~~(14) Promoting prostitution (IC 35-45-4-4) as a Class B felony;~~

~~(15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the victim is less than eighteen (18) years of age;~~

~~(16) Sexual trafficking of a minor (IC 35-42-3.5-1(b));~~

~~(17) Human trafficking (IC 35-42-3.5-1(c)(3)) if the victim is less than eighteen (18) years of age;~~

~~(18) (1) Murder (IC 35-42-1-1).~~

~~(19) (2) Voluntary manslaughter (IC 35-42-1-3).~~

~~(20) (3) An attempt or conspiracy to commit a crime listed in subdivisions (1) through (19); (2).~~

~~(21) (4) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (20); (3).~~

**(5) A person who is incarcerated for a Class A or Class B felony if:**

**(A) the person served a sentence in a facility maintained by the department after June 30, 2008; and**

**(B) the difference between the person's release date and the person's post incarceration supervision is less than sixty (60) days due to facility rule violations.**

(b) The term includes:

(1) a person who is required to register as a ~~sex or~~ violent offender in any jurisdiction; and

(2) a child who has committed a delinquent act and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

(C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

(c) In making a determination under subsection (b)(2)(C), the court shall consider expert testimony concerning whether a child is likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

SECTION 11. IC 11-8-8-5.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 5.3. As used in this chapter, "sex or violent offender" means a person who is:**

**(1) a sex offender under section 4.5 of this chapter;**

**(2) a violent offender under section 5 of this chapter; or**

**(3) both subdivisions (1) and (2).**

SECTION 12. IC 11-8-8-7, AS AMENDED BY P.L.216-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 7. (a) Subject to section 19 of this chapter, the following persons must register under this chapter:**

(1) A sex or violent offender who resides in Indiana. A sex or violent offender resides in Indiana if either of the following applies:

(A) The sex or violent offender spends or intends to

spend at least seven (7) days (including part of a day) in Indiana during a one hundred eighty (180) day period.

(B) The sex or violent offender owns real property in Indiana and returns to Indiana at any time.

(2) A sex or violent offender who works or carries on a vocation or intends to work or carry on a vocation full-time or part-time for a period:

(A) exceeding seven (7) consecutive days; or

(B) for a total period exceeding fourteen (14) days; during any calendar year in Indiana regardless of whether the sex or violent offender is financially compensated, volunteered, or is acting for the purpose of government or educational benefit.

(3) A sex or violent offender who is enrolled or intends to be enrolled on a full-time or part-time basis in any public or private educational institution **in Indiana**, including any secondary school, trade, or professional institution, or postsecondary educational institution.

(b) Except as provided in subsection (e), a sex or violent offender who resides **or expects to reside as described in section 9(a)(3) of this chapter** in Indiana shall register with the local law enforcement authority in the county where the sex or violent offender resides **or expects to reside**. If a sex or violent offender resides **or expects to reside as described in section 9(a)(3) of this chapter** in more than one (1) county, the sex or violent offender shall register with the local law enforcement authority in each county in which the sex or violent offender resides. If the sex or violent offender is also required to register under subsection (a)(2) or (a)(3), the sex or violent offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (c) or (d).

(c) A sex or violent offender described in subsection (a)(2) shall register with the local law enforcement authority in the county where the sex or violent offender is ~~or intends to be~~ employed, ~~or carry carries~~ on a vocation, **or expects to be employed or to carry on a vocation as described in section 9(a)(3) of this chapter**. If a sex or violent offender is ~~or intends to be~~ employed, ~~or carry carries~~ on a vocation, **or expects to be employed or to carry on a vocation as described in section 9(a)(3) of this chapter** in more than one (1) county, the sex or violent offender shall register with the local law enforcement authority in each county. If the sex or violent offender is also required to register under subsection (a)(1) or (a)(3), the sex or violent offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b) or (d).

(d) A sex or violent offender described in subsection (a)(3) shall register with the local law enforcement authority in the county where the sex or violent offender is enrolled or ~~intends expects~~ to be enrolled as ~~a student~~ **described in section 9(a)(3) of this chapter**. **If a sex or violent offender is enrolled or expects to be enrolled as described in section 9(a)(3) of this chapter in more than one (1) county, the sex or violent offender shall register with the local law enforcement authority in each county**. If the sex or violent offender is also required to register under subsection (a)(1) or (a)(2), the sex or violent offender shall also register with the local law

enforcement authority in the county in which the offender is required to register under subsection (b) or (c).

(e) A sex or violent offender described in subsection (a)(1)(B) shall register with the local law enforcement authority in the county in which the real property is located. If the sex or violent offender is also required to register under subsection (a)(1)(A), (a)(2), or (a)(3), the sex or violent offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b), (c), or (d).

(f) ~~A~~ **For every** sex or violent offender committed to the department, shall register with the department before the sex or violent offender is released from incarceration. The department shall forward the sex or violent offender's registration information to the local law enforcement authority of every county in which the sex or violent offender is required to register: **the department shall determine:**

- (1) **whether the person is required to register;**
- (2) **whether the person is a:**
  - (A) **tier III sex offender;**
  - (B) **tier II sex offender;**
  - (C) **tier I sex offender; or**
  - (D) **violent offender;**
- (3) **whether the person is a sexually violent predator under IC 35-38-1-7.5;**
- (4) **the period for which the person will be required to register as a sex or violent offender in Indiana; and**
- (5) **any other matter required by law to make a registration determination.**

The department shall enter into the registry the information described in section 8 of this chapter before the sex or violent offender is released from the department.

(g) This subsection does not apply to a sex or violent offender who is a sexually violent predator. A sex or violent offender not committed to the department shall register not more than seven (7) days after the sex or violent offender:

- (1) is released from a penal facility (as defined in IC 35-41-1-21);
- (2) is released from a secure private facility (as defined in IC 31-9-2-115);
- (3) is released from a juvenile detention facility;
- (4) is transferred to a community transition program;
- (5) is placed on parole;
- (6) is placed on probation;
- (7) is placed on home detention; or
- (8) arrives at the place where the sex or violent offender is required to register under subsection (b), (c), or (d);

whichever occurs first. A sex or violent offender required to register in more than one (1) county under subsection (b), (c), (d), or (e) shall register in each appropriate county not more than seventy-two (72) hours after the sex or violent offender's arrival in that county or acquisition of real estate in that county.

(h) This subsection applies to a sex or violent offender who is a sexually violent predator. (g) A sex or violent offender who is a sexually violent predator shall register with the local law enforcement authority as required under subsection (b), (c), (d), or (e), or with the appropriate law enforcement agency in another jurisdiction, not more than seventy-two (72) hours

after the sex or violent offender:

- (1) is released from a penal facility (as defined in IC 35-41-1-21);
- (2) is released from a secure private facility (as defined in IC 31-9-2-115);
- (3) is released from a juvenile detention facility;
- (4) is transferred to a community transition program;
- (5) is placed on parole;
- (6) is placed on probation;
- (7) is placed on home detention; or
- (8) arrives at the ~~place~~ **location** where the ~~sexually violent predator sex or violent offender~~ is required to register under subsection (b), (c), or (d), or (e); or
- (9) **arrives at the location in a jurisdiction outside Indiana where the sex or violent offender is required to register;**

whichever occurs first. A sex or violent offender who is a ~~sexually violent predator~~ required to register in more than one (1) county under subsection (b), (c), (d), or (e) shall register in each appropriate county not more than seventy-two (72) hours after the offender's arrival in that county or acquisition of real estate in that county.

(i) The local law enforcement authority with whom a sex or violent offender registers under this section shall make and publish a photograph of the sex or violent offender on the Indiana sex and violent offender registry web site established under IC 36-2-13-5.5. The local law enforcement authority shall make a photograph of the sex or violent offender that complies with the requirements of IC 36-2-13-5.5 at least once per year. The sheriff of a county containing a consolidated city shall provide the police chief of the consolidated city with all photographic and computer equipment necessary to enable the police chief of the consolidated city to transmit sex or violent offender photographs (and other identifying information required by IC 36-2-13-5.5) to the Indiana sex and violent offender registry web site established under IC 36-2-13-5.5. In addition, the sheriff of a county containing a consolidated city shall provide all funding for the county's financial obligation for the establishment and maintenance of the Indiana sex and violent offender registry web site established under IC 36-2-13-5.5.

(j) (h) When a sex or violent offender registers, the local law enforcement authority shall:

- (1) immediately update the Indiana sex and violent offender registry web site established under IC 36-2-13-5.5;
  - (2) notify every law enforcement agency having jurisdiction in the county where the sex or violent offender resides; **is registered;**
  - (3) **notify every:**
    - (A) **school;**
    - (B) **day care center;**
    - (C) **head start program (42 U.S.C. 9831 et seq.);**
    - (D) **public housing agency;**
    - (E) **social service entity responsible for protecting minors in the child welfare system; and**
    - (F) **volunteer organization in which contact with a minor or other vulnerable individual might occur;**
- located in the county where the sex or violent offender**

is registered; and

~~(3)~~ (4) update the National Crime Information Center National Sex Offender Registry data base via the Indiana data and communications system (IDACS).

When a sex or violent offender from a jurisdiction outside Indiana registers a change of address, **electronic mail address, instant messaging username, electronic chat room username, social networking site username**, employment, vocation, or enrollment in to Indiana, the local law enforcement authority shall provide the department with the information provided by the sex or violent offender during registration.

(i) If a sex or violent offender fails to register as required under subsection (b), (c), (d), or (e) as required in this section, the local law enforcement authority in the destination county shall immediately notify the department and request that the prosecuting attorney in the county pursue a failure to register warrant for a violation of section 17 of this chapter. If the offender fails to register in a jurisdiction outside Indiana, the department shall contact the United States Marshals Service.

SECTION 12. IC 11-8-8-8, AS AMENDED BY P.L.216-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) The registration required under this chapter must include the local law enforcement authority or other agency responsible for registering or updating the registration of a sex or violent offender shall collect or update the following information:

(1) The sex or violent offender's full name; alias; any name by which the sex or violent offender was previously known; date of birth; sex; race; height; weight; hair color; eye color; any scars, marks, or tattoos; Social Security number; driver's license number or state identification card number; vehicle description and vehicle plate number for any vehicle the sex or violent offender owns or operates on a regular basis; principal residence address; other address where the sex or violent offender spends more than seven (7) nights in a fourteen (14) day period; and mailing address, if different from the sex or violent offender's principal residence address;

(2) A description of the offense for which the sex or violent offender was convicted; the date of conviction; the county of the conviction; the cause number of the conviction; and the sentence imposed; if applicable;

(3) If the person is required to register under section 7(a)(2) or 7(a)(3) of this chapter, the name and address of each of the sex or violent offender's employers in Indiana; the name and address of each campus or location where the sex or violent offender is enrolled in school in Indiana; and the address where the sex or violent offender stays or intends to stay while in Indiana;

(4) A recent photograph of the sex or violent offender;

(5) If the sex or violent offender is a sexually violent predator, that the sex or violent offender is a sexually violent predator;

(6) If the sex or violent offender is required to register for life, that the sex or violent offender is required to register for life;

(7) Any other information required by the department;

(1) Name identifiers, including the following:

(A) The full name.

(B) Any alias or previous name.

(2) Communication identifiers, including the following:

(A) Any telephone numbers and any other designations used by the person for purposes of routing or self-identification in telephonic communication.

(B) Any designation or moniker used for routing or self-identification in Internet communications or posting, including the following:

(i) An electronic chat room username.

(ii) An electronic mail address.

(iii) An instant messaging username.

(iv) A social networking web site username.

(3) Demographic and descriptive identifiers, including the following:

(A) Date of birth and any purported date of birth.

(B) Social Security number and any purported Social Security number.

(C) Sex.

(D) Race.

(E) Height.

(F) Weight.

(G) Hair color.

(H) Eye color.

(I) Any scar, mark, or tattoo.

(4) Licensing information that authorizes the person to engage in an occupation or carry out a trade or business.

(5) Vehicle, transportation, and traveling identifiers, including the following:

(A) Driver's license or state identification card number.

(B) An alias or any purported driver's license number or state identification card number.

(C) A digitized copy of a passport or other information establishing the person's immigration status.

(D) A description and vehicle plate number or, if a plate number is not available, another identifying number for all vehicles owned by the person or used by the person on a regular basis, including the person's personal vehicle, work vehicle, and any watercraft or aircraft the person owns or operates on a regular basis.

(E) The location where the person's vehicles are habitually parked, docked, and otherwise kept.

(6) Residence, employment, and school identifiers, including the following:

(A) Principal residence.

(B) If the person is required to register under section 7(a)(2) of this chapter, the name and address of each of the person's employers in Indiana.

(C) The person's work location, including the normal travel routes and general areas in which the person works.

(D) If the person is required to register under section

7(a)(3) of this chapter, the name and address of each campus or location where the person is enrolled in school in Indiana, and the address that the person stays or expects to stay while in Indiana.

(E) Mailing address, if different from the person's principal residence address.

(F) Any other address where the person spends more than seven (7) nights in a fourteen (14) day period, or thirty (30) or more nonconsecutive days within a calendar year.

(7) Offense information, including the following:

(A) The criminal code citation to the offense of which the person was convicted.

(B) A description of the offense of which the person was convicted.

(C) The date of conviction.

(D) The county or jurisdiction of the conviction.

(E) The cause number of the conviction.

(F) The sentence imposed.

(8) A current photograph of the person.

(9) Any other information required by the department.

(b) If any information required under subsection (a)(2), (a)(5), or (a)(6) changes, the sex or violent offender shall report in person to the local law enforcement authority having jurisdiction over the sex or violent offender's current principal residence or location and update the changed information not later than seventy-two (72) hours after the information changes.

(c) If any information required under subsection (a)(2), (a)(5), or (a)(6) changes, the local law enforcement authority shall do the following:

(1) Immediately update the Indiana sex and violent offender registry web site established under IC 36-2-13-5.5.

(2) Notify every law enforcement agency having jurisdiction in the county or counties where the sex or violent offender is registered.

(3) Update the National Crime Information Center's National Sex Offender Registry data base via the Indiana data and communications system (IDACS).

SECTION 13. IC 11-8-8-9, AS AMENDED BY P.L.216-2007, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) Not more than seven (7) days before an Indiana sex or violent offender who is required to register under this chapter is scheduled to be released from a **penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or released from a juvenile detention facility**, an official of the facility shall do the following:

(1) Orally inform the sex or violent offender of the sex or violent offender's duty to register under this chapter and require the sex or violent offender to sign a written statement **affirming** that the sex or violent offender was orally informed **of the duty to register** or, if the sex or violent offender refuses to sign the statement, certify that the sex or violent offender was orally informed of the duty to register.

(2) Deliver a form advising the sex or violent offender of

the sex or violent offender's duty to register under this chapter and require the sex or violent offender to sign a written statement that the sex or violent offender received the written notice or, if the sex or violent offender refuses to sign the statement, certify that the sex or violent offender was given the written notice of the duty to register.

(3) Obtain the address where the sex or violent offender expects to reside, **work, carry on a vocation, or attend school** after the sex or violent offender's release.

(4) Transmit to the local law enforcement authority in the county where the sex or violent offender expects to reside, **work, carry on a vocation, or attend school**, the sex or violent offender's name, date of release or transfer, new address, and the offense or delinquent act committed by the sex or violent offender.

(b) Not more than seventy-two (72) hours after a sex or violent offender who is required to register under this chapter is released or transferred as described in subsection (a), an official of the facility shall transmit to the state police the following:

(1) The sex or violent offender's fingerprints, photograph, and identification factors.

(2) The address where the sex or violent offender expects to reside after the sex or violent offender's release.

(3) The complete criminal history data (as defined in IC 10-13-3-5) or, if the sex or violent offender committed a delinquent act, juvenile history data (as defined in IC 10-13-4-4) of the sex or violent offender.

(4) Information regarding the sex or violent offender's past treatment for mental disorders.

(5) Information as to whether the sex or violent offender has been determined to be a sexually violent predator.

(c) This subsection applies if a sex or violent offender is placed on probation or in a community corrections program without being confined in a penal facility. The probation office serving the court in which the sex or violent offender is sentenced shall perform the duties required under subsections (a) and (b) **and, not later than seventy-two (72) hours after sentencing, forward registration information required in section 8 of this chapter to every local law enforcement authority in which the sex or violent offender is required to register under section 7(b), 7(c), 7(d), or 7(e) of this chapter.**

(d) For any sex or violent offender who is not committed to the department, the probation office of the sentencing court shall transmit to the department a copy of the sex or violent offender's:

(1) sentencing order;

(2) presentence investigation; and

(3) any other information required by the department to make a determination concerning sex or violent offender registration.

(e) **If a local law enforcement authority determines that a sex or violent offender has not been notified of the obligation to register, the authority shall do the following:**

(1) **Orally inform the sex or violent offender of the sex or violent offender's duty to register under this chapter and require the sex or violent offender to sign a written statement affirming that the sex or violent offender was orally informed of the duty to register, or, if the sex or violent offender refuses to sign the statement, certify**

that the sex or violent offender was orally informed of the duty to register.

(2) Deliver a form advising the sex or violent offender of the sex or violent offender's duty to register under this chapter and require the sex or violent offender to sign a written statement affirming that the sex or violent offender received the written notice, or, if the sex or violent offender refuses to sign the statement, certify that the sex or violent offender was given the written notice of the duty to register.

(3) Advise the sex or violent offender that the sex or violent offender is required to report in person and register within seventy-two (72) hours of this notice.

SECTION 14. IC 11-8-8-11, AS AMENDED BY P.L.216-2007, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) If a sex or violent offender who is required to register under this chapter changes:

(1) principal residence; ~~address; or~~

(2) if section 7(a)(2) or 7(a)(3) of this chapter applies, the place where the sex or violent offender stays in Indiana; ~~or~~

(3) **communications identifiers (as described in section 8(2) of this chapter);**

the sex or violent offender shall report in person to the local law enforcement authority having jurisdiction over the sex or violent offender's current principal ~~address~~ **residence** or location and, if the offender moves to a new county in Indiana, to the local law enforcement authority having jurisdiction over the sex or violent offender's new principal ~~address~~ **residence** or location not more than seventy-two (72) hours after the address change.

(b) If a sex or violent offender moves to a new county in Indiana, the local law enforcement authority ~~where the sex or violent offender's current principal residence address is located~~ **in the new county in Indiana** shall inform the local law enforcement authority in the ~~new county where the sex or violent offender's principal residence was previously located~~ **county in Indiana** of the sex or violent offender's new residence and ~~forward~~ **shall send a copy of** all relevant registration information concerning the sex or violent offender ~~in the new county~~ to the local law enforcement authority in the ~~new county where the sex or violent offender's principal residence was previously located~~ **county**. The local law enforcement authority receiving notice under this subsection shall verify the address of the sex or violent offender under section 13 of this chapter not more than seven (7) days after receiving the notice. ~~The local law enforcement authority in the county where the sex or violent offender's principal residence was previously located shall in turn forward all relevant registration information concerning the sex or violent offender in that county to the local law enforcement authority in the new county.~~

(c) If a sex or violent offender who is required to register under section 7(a)(2) or 7(a)(3) of this chapter changes the sex or violent offender's principal place of employment, principal place of vocation, or campus or location where the sex or violent offender is enrolled in school, the sex or violent offender shall report in person:

(1) to the local law enforcement authority having jurisdiction over the sex or violent offender's current

principal place of employment, principal place of vocation, or campus or location where the sex or violent offender is enrolled in school; and

(2) if the sex or violent offender changes the sex or violent offender's place of employment, vocation, or enrollment to a new county in Indiana, to the local law enforcement authority having jurisdiction over the sex or violent offender's new principal place of employment, principal place of vocation, or campus or location where the sex or violent offender is enrolled in school;

not more than seventy-two (72) hours after the change.

(d) If a sex or violent offender moves the sex or violent offender's place of employment, vocation, or enrollment to a new county in Indiana, the local law enforcement authority ~~having jurisdiction over the sex or violent offender's current principal place of employment, principal place of vocation, or campus or location where the sex or violent offender is enrolled in school~~ **in the new county where the sex or violent offender's new principal place of employment, vocation, or enrollment is located** shall inform the local law enforcement authority ~~in the new county of the sex or violent offender's new principal place of employment, vocation, or enrollment having jurisdiction over the sex or violent offender's former principal place of employment, principal place of vocation, or campus or location where the sex or violent offender was enrolled in school~~ by forwarding relevant registration information to the local law enforcement authority in the ~~new~~ **previous** county of **residence**.

(e) If a sex or violent offender moves the sex or violent offender's residence, place of employment, vocation, or enrollment to a new state, the local law enforcement authority shall inform the ~~state police agency that oversees sex or violent offender registration activities~~ **state police agency that oversees sex or violent offender registration activities** in the new state of the sex or violent offender's new place of residence, employment, vocation, or enrollment.

(f) ~~If a sex or violent offender who is required to register under this chapter intends to change the sex or violent offender's principal residence, place of employment, place of vocation, or campus or location where the sex or violent offender is enrolled in school to a jurisdiction outside the United States, the sex or violent offender shall report in person to the local law enforcement authority having jurisdiction over the sex or violent offender's current principal residence seventy-two (72) hours before the move and provide the information required under section 8 of this chapter in addition to the name of the country to which the sex or violent offender plans to relocate.~~

~~(f)~~ (g) A local law enforcement authority shall make registration information, including information concerning the duty to register and the penalty for failing to register, available to a sex or violent offender.

~~(g)~~ (h) A local law enforcement authority who is notified of a change under subsection (a), ~~or~~ (c), ~~or~~ (f) shall:

(1) immediately update the Indiana sex and violent offender registry web site established under IC 36-2-13-5.5;

(2) **notify every:**

- (A) school;
- (B) day care center;
- (C) head start program (42 U.S.C. 9831 et seq.);
- (D) public housing agency;
- (E) social service entity responsible for protecting minors in the child welfare system;
- (F) volunteer organization in which contact with a minor or other vulnerable individual might occur; and
- (G) law enforcement agency having jurisdiction; in the county or counties where the sex or violent offender is registered;
- (3) update the National Crime Information Center National Sex Offender Registry data base via the Indiana data and communications system (IDACS);
- (4) if the sex or violent offender plans to relocate outside the United States, notify the United States Marshals Service; and
- ~~(5)~~ (5) notify the department.

~~(h)~~ (i) If a sex or violent offender who is registered with a local law enforcement authority becomes incarcerated, the local law enforcement authority shall transmit a copy of the information provided by the sex or violent offender during registration to the department.

~~(i)~~ (j) If a sex or violent offender is no longer required to register due to the expiration of the registration period, the local law enforcement authority shall transmit a copy of the information provided by the sex or violent offender during registration to the department.

**(k) If a sex or violent offender fails to register as required under section 7(b), 7(c), 7(d), or 7(e) of this chapter, the local law enforcement authority in the destination county shall immediately notify the department and request that the prosecuting attorney in the county pursue a failure to register warrant for a violation of section 17 of this chapter, if applicable.**

SECTION 15. IC 11-8-8-12, AS AMENDED BY P.L.216-2007, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) As used in this section, "temporary residence" means a residence:

- (1) that is established to provide transitional housing for a person without another residence; and
- (2) in which a person is not typically permitted to reside for more than thirty (30) days in a sixty (60) day period.

(b) This section applies only to a sex or violent offender who resides in a temporary residence. In addition to the other requirements of this chapter, a sex or violent offender who resides in a temporary residence shall **register report** in person **with** to the local law enforcement authority **in the county where the sex or violent offender temporarily resides and provide the sex or violent offender's temporary residence location and any other information required by the local law enforcement authority: which the temporary residence is located:**

- (1) not more than seventy-two (72) hours after the sex or violent offender moves into the temporary residence; and
- (2) during the period in which the sex or violent offender resides in a temporary residence, at least once every seven

(7) days following the sex or violent offender's initial registration under subdivision (1).

(c) A sex or violent offender who does not have a principal residence or temporary residence shall report in person to the local law enforcement authority in the county where the sex or violent offender **temporarily resides and provide a description of the sex or violent offender's exact location and any other information required by the local law enforcement authority: at least once every seven (7) days to report an address for the location where the sex or violent offender will stay during the time in which the sex or violent offender lacks a principal address or temporary residence:**

- (1) not more than seventy-two (72) hours after the sex or violent offender moves into the location; and**
- (2) during the period in which the sex or violent offender resides in the location, at least once every seven (7) days following the sex or violent offender's initial registration under subdivision (1).**

(d) A sex or violent offender's obligation to register in person once every seven (7) days terminates when the sex or violent offender no longer resides in the temporary residence or location described in subsection **(b) or (c)**. However, all other requirements imposed on a sex or violent offender by this chapter continue in force, including the requirement that a sex or violent offender register the sex or violent offender's new address with the local law enforcement authority.

SECTION 16. IC 11-8-8-13, AS AMENDED BY P.L.216-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) To verify a sex or violent offender's current residence, the local law enforcement authority having jurisdiction over the area of the sex or violent offender's current principal ~~address~~ **residence** or location shall do the following:

(1) Mail a form that is ~~approved or~~ prescribed by the department to each ~~sex or violent offender tier III sex offender~~ in the county at the ~~sex or violent offender's listed principal residence address~~ at least one (1) time ~~per year~~ **every ninety (90) days**, beginning seven (7) days after the local law enforcement authority receives a notice under section 11 or 20 of this chapter or the date the ~~sex or violent tier III sex offender~~ is:

- (A) released from a penal facility (as defined in IC 35-41-1-21); ~~a secure private facility (as defined in IC 31-9-2-115); or a juvenile detention facility;~~
- (B) released from a secure private facility (as defined in IC 31-9-2-115);**
- (C) released from a juvenile detention facility;**
- ~~(B) placed in (D) transferred to a community transition program;~~
- ~~(C) placed in a community corrections program;~~
- ~~(D) (E) placed on parole; or~~
- ~~(E) (F) placed on probation;~~
- (G) placed on home detention; or**
- (H) at the location where the offender is required to register under section 7(b), 7(c), 7(d), or 7(e) of this chapter;**

whichever occurs first.



(2) Mail a form that is ~~approved or~~ prescribed by the department to each ~~sex or violent offender who is designated a sexually violent predator under IC 35-38-1-7.5~~ **tier II sex offender in the county at the offender's principal residence** at least ~~once every ninety (90)~~ **one (1) time every one hundred eighty (180) days**, beginning seven (7) days after the local law enforcement authority receives a notice under section 11 or 20 of this chapter or the date the ~~sex or violent offender tier II sex offender~~ is:

(A) released from a penal facility (as defined in IC 35-41-1-21); ~~a secure private facility (as defined in IC 31-9-2-115); or a juvenile detention facility;~~

**(B) released from a secure private facility (as defined in IC 31-9-2-115);**

**(C) released from a juvenile detention facility;**

~~(B) placed in (D) transferred to a community transition program;~~

~~(C) placed in a community corrections program;~~

~~(D) (E) placed on parole; or~~

~~(E) (F) placed on probation;~~

**(G) placed on home detention; or**

**(H) at the location where the offender is required to register under section 7(b), 7(c), 7(d), or 7(e) of this chapter;**

whichever occurs first.

(3) Mail a form that is prescribed by the department to each tier I sex offender in the county at the offender's principal residence at least one (1) time each three hundred sixty-five (365) days, beginning seven (7) days after the local law enforcement authority receives a notice under section 11 or 20 of this chapter or the date the tier I sex offender is:

(A) released from a penal facility (as defined in IC 35-41-1-21);

(B) released from a secure private facility (as defined in IC 31-9-2-115);

(C) released from a juvenile detention facility;

(D) transferred to a community transition program;

(E) placed on parole;

(F) placed on probation;

(G) placed on home detention; or

(H) at the location where the offender is required to register under section 7(b), 7(c), 7(d), or 7(e) of this chapter;

whichever occurs first.

(4) Mail a form that is prescribed by the department to each violent offender in the county at the offender's principal residence at least one (1) time each three hundred sixty-five (365) days, beginning seven (7) days after the local law enforcement authority receives a notice under section 11 or 20 of this chapter or the date the violent offender is:

(A) released from a penal facility (as defined in IC 35-41-1-21);

(B) released from a secure private facility (as defined in IC 31-9-2-115);

(C) released from a juvenile detention facility;

**(D) transferred to a community transition program;**

**(E) placed on parole;**

**(F) placed on probation;**

**(G) placed on home detention; or**

**(H) at the location where the offender is required to register under section 7(b), 7(c), 7(d), or 7(e) of this chapter;**

whichever occurs first.

~~(3) (5) Personally visit each sex or violent offender tier III sex offender in the county at the sex or violent offender's listed principal residence address at least one (1) time per year every ninety (90) days, beginning seven (7) days after the local law enforcement authority receives a notice under section 7 of this chapter or the date the sex or violent tier III sex offender is:~~

(A) released from a penal facility (as defined in IC 35-41-1-21); ~~a secure private facility (as defined in IC 31-9-2-115); or a juvenile detention facility;~~

**(B) released from a secure private facility (as defined in IC 31-9-2-115);**

**(C) released from a juvenile detention facility;**

~~(B) placed in (D) transferred to a community transition program;~~

~~(C) placed in a community corrections program;~~

~~(D) (E) placed on parole; or~~

~~(E) (F) placed on probation;~~

**(G) placed on home detention; or**

**(H) at the location where the offender is required to register under section 7(b), 7(c), 7(d), or 7(e) of this chapter;**

whichever occurs first.

~~(4) (6) Personally visit each sex or violent tier II sex offender who is designated a sexually violent predator under IC 35-38-1-7.5 in the county at the offender's principal residence at least once one (1) time every ninety (90) one hundred eighty (180) days, beginning seven (7) days after the local law enforcement authority receives a notice under section 7 of this chapter or the date the sex or violent tier II sex offender is:~~

(A) released from a penal facility (as defined in IC 35-41-1-21); ~~a secure private facility (as defined in IC 31-9-2-115); or a juvenile detention facility;~~

**(B) released from a secure private facility (as defined in IC 31-9-2-115);**

**(C) released from a juvenile detention facility;**

~~(B) placed in (D) transferred to a community transition program;~~

~~(C) placed in a community corrections program;~~

~~(D) (E) placed on parole; or~~

~~(E) (F) placed on probation;~~

**(G) placed on home detention; or**

**(H) at the location where the offender is required to register under section 7(b), 7(c), 7(d), or 7(e) of this chapter;**

whichever occurs first.

**(7) Personally visit each tier I sex offender in the county at the offender's principal residence at least one (1) time every three hundred sixty-five (365) days, beginning**

seven (7) days after the local law enforcement authority receives a notice under section 7 of this chapter or the date the tier I sex offender is:

- (A) released from a penal facility (as defined in IC 35-41-1-21);
- (B) released from a secure private facility (as defined in IC 31-9-2-115);
- (C) released from a juvenile detention facility;
- (D) transferred to a community transition program;
- (E) placed on parole;
- (F) placed on probation;
- (G) placed on home detention; or
- (H) at the location where the offender is required to register under section 7(b), 7(c), 7(d), or 7(e) of this chapter;

whichever occurs first.

(8) Personally visit each violent offender in the county at the offender's principal residence at least one (1) time every three hundred sixty-five (365) days, beginning seven (7) days after the local law enforcement authority receives a notice under section 7 of this chapter or the date the violent offender is:

- (A) released from a penal facility (as defined in IC 35-41-1-21);
- (B) released from a secure private facility (as defined in IC 31-9-2-115);
- (C) released from a juvenile detention facility;
- (D) transferred to a community transition program;
- (E) placed on parole;
- (F) placed on probation;
- (G) placed on home detention; or
- (H) at the location where the offender is required to register under section 7(b), 7(c), 7(d), or 7(e) of this chapter;

whichever occurs first.

(b) If a sex or violent offender fails to return a signed form either by mail or in person, not later than fourteen (14) days after mailing, or appears not to reside at the ~~listed address~~, **principal residence**, the local law enforcement authority shall immediately notify the department and **request that the prosecuting attorney of the county seek a warrant for failure to register under IC 11-8-8-17.**

SECTION 17. IC 11-8-8-14, AS AMENDED BY P.L.216-2007, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) ~~This subsection does not apply to a sex or violent offender who is a sexually violent predator. In addition to the other requirements of this chapter, a sex or violent tier III sex offender who is required to register under this chapter shall: at least one (1) time per calendar year:~~

- (1) report in person to the local law enforcement authority;
- (2) register; and
- (3) be photographed by the local law enforcement authority;

in each location where the offender is required to register **at least one (1) time every ninety (90) days, on a schedule determined by the local law enforcement authority.**

(b) ~~This subsection applies to a sex or violent offender who is~~

~~a sexually violent predator. In addition to the other requirements of this chapter, a sex or violent tier II sex offender who is a sexually violent predator under IC 35-38-1-7.5 who is required to register under this chapter shall:~~

- (1) report in person to the local law enforcement authority;
- (2) register; and
- (3) be photographed by the local law enforcement authority; ~~in each location where the sex or violent offender is required to register;~~

~~every ninety (90) in each location where the offender is required to register at least one (1) time every one hundred eighty (180) days.~~

(c) ~~In addition to the other requirements of this chapter, a tier I sex offender who is required to register under this chapter shall:~~

- (1) report in person to the local law enforcement authority;
- (2) register; and
- (3) be photographed by the local law enforcement authority;

~~in each location where the offender is required to register at least one (1) time every three hundred sixty-five (365) days, on a schedule determined by the local law enforcement authority.~~

(d) ~~In addition to the other requirements of this chapter, a violent offender who is required to register under this chapter shall:~~

- (1) report in person to the local law enforcement authority;
- (2) register; and
- (3) be photographed by the local law enforcement authority;

~~in each location where the offender is required to register at least one (1) time every three hundred sixty-five (365) days, on a schedule determined by the local law enforcement authority.~~

~~(e) Each time a sex or violent offender who claims to be working or attending school registers in person, the sex or violent offender shall provide documentation to the local law enforcement authority providing evidence that the sex or violent offender is still working or attending school at the registered location.~~

~~(f) If a sex or violent offender fails to register as required under this section, the local law enforcement authority shall immediately notify the department and request that the prosecuting attorney of the county seek a warrant for failure to register under IC 11-8-8-17.~~

~~(g) All information provided by a sex or violent offender as part of the registration process must be certified as true under penalties of perjury.~~

SECTION 18. IC 11-8-8-15, AS AMENDED BY P.L.216-2007, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. (a) A sex or violent offender who is a resident of Indiana shall obtain and keep in the sex or violent offender's possession:

- (1) a valid Indiana driver's license; or
- (2) a valid Indiana identification card (as described in IC 9-24-16).

(b) A sex or violent offender required to register in Indiana who is not a resident of Indiana shall obtain and keep in the sex or violent offender's possession:

- (1) a valid driver's license issued by the state in which the sex or violent offender resides; or
- (2) a valid state issued identification card issued by the state in which the sex or violent offender resides.

(c) A person who knowingly or intentionally violates this section commits failure of a sex or violent offender to possess identification, a Class A misdemeanor. However, the offense is a Class D felony if the person:

**(1) is a tier III sex offender;**

**(2) is a sexually violent predator (as defined in IC 35-38-1-7.5); or**

**(3) has a prior unrelated conviction:**

- (A) under this section; or
- (B) based on the person's failure to comply with any requirement imposed on an offender under this chapter.

(d) It is a defense to a prosecution under this section that:

- (1) the person has been unable to obtain a valid driver's license or state issued identification card because less than thirty (30) days have passed since the person's release from incarceration; or
- (2) the person possesses a driver's license or state issued identification card that expired not more than thirty (30) days before the date the person violated subsection (a) or (b).

SECTION 19. IC 11-8-8-16, AS AMENDED BY P.L.216-2007, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) A sex or violent offender who is required to register under this chapter may not petition for a change of name under IC 34-28-2.

(b) If a sex or violent offender who is required to register under this chapter changes the sex or violent offender's name due to marriage, the sex or violent offender **shall report in person to the local law enforcement authority having jurisdiction over the sex or violent offender's current principal residence or location, or, if the sex or violent offender has no principal residence, the local law enforcement authority having jurisdiction where the sex or violent offender is registered under section 7(c), 7(d), or 7(e) of this chapter, and provide documentation of the change must register with the local law enforcement authority not more than seven (7) days seventy-two (72) hours after the name change.**

SECTION 20. IC 11-8-8-17, AS AMENDED BY P.L.216-2007, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. (a) **Except as provided in subsection (c),** a sex or violent offender **required to register under this chapter** who knowingly or intentionally:

- (1) fails to register when required to register under this chapter;
- (2) fails to register in every location where the sex or violent offender is required to register under this chapter;
- (3) makes a material misstatement or omission while registering as a sex or violent offender under this chapter;
- (4) fails to register **or report** in person as required under this chapter; or

(5) does not reside at the sex or violent offender's registered address or location; commits a Class D felony.

(b) The offense described in subsection (a) is a Class C felony if the sex or violent offender has a prior unrelated conviction for an offense:

- (1) under this section; or
- (2) based on the person's failure to comply with any requirement imposed on a sex or violent offender under this chapter or under IC 5-2-12 before its repeal.

~~(c) It is not a defense to a prosecution under this section that the sex or violent offender was unable to pay the sex or violent offender registration fee or the sex or violent offender address change fee described under IC 36-2-13-5.6.~~

**(c) This subsection applies only to a sex or violent offender required to register under this chapter who:**

- (1) changes the sex or violent offender's principal residence to a new county in Indiana; and**
- (2) registers with the local law enforcement authority in the new county having jurisdiction over the sex or violent offender's new principal residence not more than seventy-two (72) hours after the change of address.**

**A sex or violent offender to whom this subsection applies who fails to register with the local law enforcement authority having jurisdiction over the sex or violent offender's former principal residence in the previous county of residence commits a Class C infraction.**

SECTION 21. IC 11-8-8-18, AS AMENDED BY P.L.216-2007, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. (a) A ~~sexually violent predator tier II sex offender~~ who will be absent from the ~~sexually violent predator's person's~~ principal residence for more than ~~seventy-two (72) hours~~ **seven (7) days** shall inform the local law enforcement authority in the county where the ~~sexually violent predator's person's~~ principal ~~address~~ **residence** is located, in person, of the following:

- (1) That the ~~sexually violent predator person~~ will be absent from the ~~sexually violent predator's person's~~ principal residence for more than ~~seventy-two (72) hours~~ **seven (7) days**.
- (2) The location where the ~~sexually violent predator person~~ will be located during the absence from the ~~sexually violent predator's person's~~ principal residence.
- (3) The length of time the ~~sexually violent predator person~~ will be absent from the ~~sexually violent predator's person's~~ principal residence.

**If the tier II sex offender will spend more than seven (7) days away from the county of the principal residence, the local law enforcement authority in the county where the person's principal residence is located shall notify the local law enforcement authority in the new county where the person plans to stay.**

(b) A ~~sexually violent predator tier II sex offender~~ who will spend more than ~~seventy-two (72) hours~~ **in a county in which the sexually violent predator is not required to register seven (7) days away from the county where the person's principal residence is located** shall inform the local law enforcement authority in the **new county, in which the sexually violent**

predator is not required to register, in person, of the following:

- (1) That the sexually violent predator person will spend more than seventy-two (72) hours time in the county.
- (2) The location where the sexually violent predator person will be located while spending time in the county.
- (3) The length of time the sexually violent predator person will remain in the county.

Upon request of the local law enforcement authority of the county in which the sexually violent predator tier II sex offender is not required to register, the sexually violent predator person shall provide the local law enforcement authority with any additional information that will assist the local law enforcement authority in determining the sexually violent predator's person's whereabouts during the sexually violent predator's person's stay in the county.

(c) A tier III sex offender who will be absent from the person's principal residence for more than seventy-two (72) hours shall inform the local law enforcement authority in the county where the person's principal residence is located, in person, of the following:

- (1) That the person will be absent from the person's principal residence for more than seventy-two (72) hours.
- (2) The location where the person will be located during the absence from the person's principal residence.
- (3) The length of time the person will be absent from the person's principal residence.

If the tier III sex offender will spend more than seventy-two (72) hours away from the county of the principal residence, the local law enforcement authority in the county where the person's principal residence is located shall notify the local law enforcement authority in the new county where the person plans to stay.

(d) A tier III sex offender who will spend more than seventy-two (72) hours away from the county where the person's principal residence is located shall inform the local law enforcement authority in the new county, in person, of the following:

- (1) That the person will spend time in the county.
- (2) The location where the person will be located while spending time in the county.
- (3) The length of time the person will remain in the county.

Upon request of the local law enforcement authority of the county in which the tier III sex offender is not required to register, the person shall provide the local law enforcement authority with any additional information that will assist the local law enforcement authority in determining the person's whereabouts during the person's stay in the county.

(c) (e) A sexually violent predator tier II or tier III sex offender who knowingly or intentionally violates this section commits failure to notify, a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this section based on the person's failure to comply with any requirement imposed on a sex or violent offender under this chapter.

SECTION 22. IC 11-8-8-19, AS AMENDED BY P.L.216-2007, SECTION 27, IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. (a) Except as provided in subsections (b) through (e); a sex or violent offender is required to register under this chapter until the expiration of ten (10) years after the date the sex or violent offender:

- (1) is released from a penal facility (as defined in IC 35-41-1-21) or a secure juvenile detention facility of a state or another jurisdiction;
- (2) is placed in a community transition program;
- (3) is placed in a community corrections program;
- (4) is placed on parole; or
- (5) is placed on probation;

whichever occurs last. The department shall ensure that an offender who is no longer required to register as a sex or violent offender is notified that the obligation to register has expired. A tier III sex offender is required to register for life.

(b) A sex or violent offender who is a sexually violent predator is required to register for life. A tier II sex offender is required to register under this chapter until the expiration of twenty-five (25) years from the date the sex or violent offender was:

- (1) released from a penal facility (as defined in IC 35-41-1-21);
- (2) released from a secure private facility (as defined in IC 31-9-2-115);
- (3) released from a juvenile detention facility;
- (4) transferred to a community transition program;
- (5) placed on parole;
- (6) placed on probation; or
- (7) placed on home detention;

whichever occurs last.

(c) A sex or violent offender who is convicted of at least one (1) offense under section 5(a) of this chapter that the sex or violent offender committed:

- (1) when the person was at least eighteen (18) years of age; and
- (2) against a victim who was less than twelve (12) years of age at the time of the crime;

is required to register for life. A tier I sex offender is required to register under this chapter until the expiration of fifteen (15) years from the date the sex or violent offender was:

- (1) released from a penal facility (as defined in IC 35-41-1-21);
- (2) released from a secure private facility (as defined in IC 31-9-2-115);
- (3) released from a juvenile detention facility;
- (4) transferred to a community transition program;
- (5) placed on parole;
- (6) placed on probation; or
- (7) placed on home detention;

whichever occurs last.

(d) A sex or violent offender who is convicted of at least one (1) offense under section 5(a) of this chapter in which the sex offender:

- (1) proximately caused serious bodily injury or death to the victim;
- (2) used force or the threat of force against the victim or a member of the victim's family, unless the offense is sexual battery as a Class D felony; or

~~(3) rendered the victim unconscious or otherwise incapable of giving voluntary consent;~~

A violent offender is required to register for life.

~~(c) A sex or violent offender who is convicted of at least two (2) unrelated offenses under section 5(a) of this chapter is required to register for life:~~

~~(f) (e) A person who is required to register as a sex or violent offender in any jurisdiction shall register for the period required by the other jurisdiction or the period described in this section, whichever is longer.~~

**(f) A tier I sex offender's registration requirement may be reduced from fifteen (15) years to ten (10) years if the person:**

**(1) has not been convicted of a felony since the person's registration period began;**

**(2) has not been convicted of a subsequent sex offense;**

**(3) has successfully completed any period of supervised release, probation, or parole; and**

**(4) has successfully completed an appropriate sex offender treatment program certified by the department, a local sentencing court, or by the United States Attorney General.**

**(g) The department shall ensure that an offender who is no longer required to register as a sex or violent offender is notified that the obligation to register has expired.**

SECTION 23. IC 11-8-8-20, AS AMENDED BY P.L.216-2007, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. (a) The department may enter into a compact or agreement with one (1) or more jurisdictions outside Indiana to exchange notifications concerning the change of address, employment, vocation, or enrollment of a sex or violent offender between Indiana and the other jurisdiction or the other jurisdiction and Indiana.

(b) If the department receives information that a sex or violent offender has relocated to Indiana to reside, engage in employment or a vocation, or enroll in school, or that a sex or violent offender has been convicted in Indiana but not sentenced to the department, the department shall determine:

**(1) whether the person is required to register;**

**(2) whether the person is defined as a:**

**(A) tier III sex offender; ~~under IC 11-8-8-4.5; or~~**

**(B) tier II sex or violent offender; ~~under IC 11-8-8-5;~~**

**(C) tier I sex offender; or**

**(D) violent offender;**

~~(2) (3) whether the person is a sexually violent predator under IC 35-38-1-7.5;~~

~~(3) (4) the period the person will be required to register as a sex or violent offender in Indiana; and~~

~~(4) (5) any other matter required by law to make a registration determination.~~

(c) After the department has made a determination under subsection (b), the department shall update the sex and violent offender registry web site and transmit the department's determination to the local law enforcement authority having jurisdiction over the county where the sex or violent offender resides, is employed, and attends school. The department shall transmit:

**(1) the sex or violent offender's name, date of relocation, new address (if applicable), the offense or delinquent act**

**committed by the sex or violent offender, and any other available descriptive information;**

**(2) whether the person is defined as a:**

**(A) tier III sex offender;**

**(B) tier II sex offender;**

**(C) tier I sex offender; or**

**(D) violent offender;**

**(3) whether the sex or violent offender is a sexually violent predator;**

~~(3) (4) the period the sex or violent offender will be required to register in Indiana; and~~

~~(4) (5) anything else required by law to make a registration determination.~~

SECTION 24. IC 11-8-8-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 23. (a) This section applies to a tier I sex offender who seeks to have the offender's registration period reduced from fifteen (15) years to ten (10) years under section 19(f) of this chapter.

(b) A tier I sex offender may seek to have the offender's registration period reduced from fifteen (15) years to ten (10) years by filing a verified petition in:

**(1) the court of conviction, if the offender was convicted in Indiana; or**

**(2) a circuit or superior court located in the county where the offender's principal residence is located, if the offender was convicted in another jurisdiction.**

(c) A petition filed under this section must briefly describe why the tier I sex offender is entitled to relief, making specific reference to the four (4) prerequisites for relief set forth in section 19(f) of this chapter.

(d) Upon receipt of a petition under this section, a court may:

**(1) summarily dismiss the petition if the petition does not entitle the tier I offender to relief; or**

**(2) provide a copy of the petition to the prosecuting attorney and conduct a hearing on the merits.**

A hearing may be set not less than thirty (30) days after the court provides a copy of the petition to the prosecuting attorney. The prosecuting attorney may attend the hearing and present evidence.

(e) The tier I sex offender bears the burden of proving by a preponderance of the evidence that the offender meets the four (4) prerequisites for relief set forth in section 19(f) of this chapter.

(f) If the court finds that the tier I sex offender has proved that the offender is entitled to relief under section 19(f) of this chapter, the court shall reduce the offender's registration period from fifteen (15) years to ten (10) years. If the court reduces the offender's registration period under this section, the court shall notify the department and the local law enforcement authority in the county. The department shall notify other relevant agencies and individuals, if applicable.

(g) If the court finds that the tier I sex offender has not proved that the offender is entitled to relief under section 19(f) of this chapter, the court may not reduce the offender's registration period.

(h) A person may file a petition under this section not more than one (1) time per year.

SECTION 25. IC 11-8-8-24 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 24. (a) This section applies to a:

- (1) tier III sex offender;
- (2) tier II sex offender;
- (3) tier I sex offender; or
- (4) violent offender;

who seeks to challenge a determination made in Indiana concerning the sex or violent offender's classification or registration period.

(b) This section does not apply to a sex or violent offender convicted in another jurisdiction who seeks to challenge a determination made in the other jurisdiction.

(c) As used in this section, "petitioner" means a person to whom this section applies who seeks to challenge a determination relating to:

- (1) the person's classification as a:
  - (A) tier III sex offender;
  - (B) tier II sex offender;
  - (C) tier I sex offender; or
  - (D) violent offender; or
- (2) the period the person is required to register as a sex or violent offender in Indiana.

(d) A petitioner who seeks to challenge the petitioner's classification or registration period may do so by filing a verified petition in:

- (1) the court of conviction, if the petitioner was convicted in Indiana; or
- (2) a circuit or superior court located in the county where the petitioner's principal residence is located, if the petitioner was convicted in another jurisdiction.

(e) A petition filed under this section must briefly and specifically describe why the petitioner is entitled to relief.

(f) Upon receipt of a petition under this section, a court may:

- (1) summarily dismiss the petition if the petition does not entitle the petitioner to relief; or
- (2) provide a copy of the petition to the department and the prosecuting attorney and conduct a hearing on the merits.

A hearing may be set not less than thirty (30) days after the court provides a copy of the petition to the department and the prosecuting attorney. The prosecuting attorney, the department, or both may attend the hearing and present evidence.

(g) The petitioner bears the burden of proving by a preponderance of the evidence that the petitioner has been wrongly classified or that the petitioner's registration period is incorrect.

(h) If the court finds that the petitioner has proved that the petitioner is entitled to relief, the court shall order the department to revise the petitioner's classification or registration period. The department shall notify other relevant agencies and individuals, if applicable.

(i) If the court finds that the petitioner has not proved that

the offender is entitled to relief, the court may not order the department to revise the petitioner's classification or registration period.

(j) A petitioner may file a petition under this section not more than one (1) time per year.

SECTION 26. IC 11-13-3-4, AS AMENDED BY P.L.216-2007, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole, the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:

- (1) retained by the parolee;
- (2) forwarded to any person charged with the parolee's supervision; and
- (3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

- (1) consider:
  - (A) the residence of the parolee prior to the parolee's incarceration; and
  - (B) the parolee's place of employment; and
- (2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

- (1) periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and
- (2) have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

- (1) may require a parolee who is a sex offender (as defined in IC 11-8-8-4.5) to:
  - (A) participate in a treatment program for sex offenders approved by the parole board; and

(B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:

- (i) receives the parole board's approval; or
- (ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

(A) require a parolee who is a sex or violent offender (as defined in IC 11-8-8-5) to register with a local law enforcement authority under IC 11-8-8;

(B) prohibit a parolee who is a sex offender from residing within ~~one thousand (1,000)~~ **five hundred (500)** feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, unless the sex offender obtains written approval from the parole board;

(C) prohibit a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the sex offender's sex offense unless the sex offender obtains a waiver under IC 35-38-2-2.5; ~~and~~

(D) prohibit a parolee who is a sex offender from owning, operating, managing, being employed by, or volunteering at any attraction designed to be primarily enjoyed by children less than sixteen (16) years of age;

**(E) require a parolee who is a sex offender to consent:**

- (i) to the search of the sex offender's computer at any time; and**
- (ii) to the installation on the sex offender's computer or device with Internet capability, at the sex offender's expense, of one (1) or more hardware or software systems to monitor Internet usage;**

**(F) prohibit the sex offender from:**

- (i) accessing or using certain web sites, chat rooms, or instant messaging programs; and**
- (ii) deleting, erasing, or tampering with information on the sex offender's computer that relates to the person's Internet usage; and**

**(G) prohibit the sex offender from loitering in public within five hundred (500) feet of school property, a public park, or a youth program center if children are present.**

The parole board may not grant a sexually violent predator (as defined in IC 35-38-1-7.5) or a sex offender who is an offender against children under IC 35-42-4-11 a waiver under subdivision (2)(B) or (2)(C). If the parole board allows the sex offender to reside within ~~one thousand (1,000)~~ **five hundred (500)** feet of school property under subdivision (2)(B), the parole board shall notify each school within ~~one thousand (1,000)~~ **five hundred (500)** feet of the sex offender's residence of the order.

(h) The address of the victim of a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, even if the sex offender obtains a waiver under IC 35-38-2-2.5.

(i) As a condition of parole, the parole board may require a parolee to participate in a reentry court program.

(j) As a condition of parole, the parole board:

- (1) shall require a parolee who is a sexually violent

predator under IC 35-38-1-7.5; and

- (2) may require a parolee who is a sex or violent offender (as defined in IC 11-8-8-5);

to wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location.

(k) As a condition of parole, the parole board may prohibit, in accordance with IC 35-38-2-2.6, a parolee who has been convicted of stalking from residing within one thousand (1,000) feet of the residence of the victim of the stalking for a period that does not exceed five (5) years.

SECTION 27. IC 20-30-5.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

#### **Chapter 5.5. Internet Safety**

**Sec. 1. Each school corporation shall include in the school corporation's curriculum for grades 3 and above instruction concerning safe usage of the Internet by children.**

**Sec. 2. The:**

- (1) department shall develop guidelines; and**

- (2) state board shall adopt rules under IC 4-22-2;**

**concerning the instruction required under this chapter to assist teachers assigned to teach the material described in this chapter.**

**Sec. 3. Guidelines and rules adopted under section 2 of this chapter must cover:**

- (1) safe online communication;**
- (2) privacy protection;**
- (3) cyberbullying;**
- (4) viewing inappropriate material;**
- (5) file sharing;**
- (6) the importance of open communication with responsible adults; and**
- (7) any other material that the department or the state board finds will assist children in using the Internet safely.**

SECTION 28. IC 34-24-1-1, AS AMENDED BY P.L.137-2007, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) The following may be seized:

(1) All vehicles (as defined by IC 35-41-1), if they are used or are intended for use by the person or persons in possession of them to transport or in any manner to facilitate the transportation of the following:

(A) A controlled substance for the purpose of committing, attempting to commit, or conspiring to commit any of the following:

- (i) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).
- (ii) Dealing in methamphetamine (IC 35-48-4-1.1).
- (iii) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
- (iv) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
- (v) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- (vi) Dealing in a counterfeit substance (IC 35-48-4-5).

- (vii) Possession of cocaine or a narcotic drug (IC 35-48-4-6).
  - (viii) Possession of methamphetamine (IC 35-48-4-6.1).
  - (ix) Dealing in paraphernalia (IC 35-48-4-8.5).
  - (x) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).
  - (B) Any stolen (IC 35-43-4-2) or converted property (IC 35-43-4-3) if the retail or repurchase value of that property is one hundred dollars (\$100) or more.
  - (C) Any hazardous waste in violation of IC 13-30-10-4.
  - (D) A bomb (as defined in IC 35-41-1-4.3) or weapon of mass destruction (as defined in IC 35-41-1-29.4) used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism (as defined by IC 35-41-1-26.5).
  - (2) All money, negotiable instruments, securities, weapons, communications devices, or any property used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism or commonly used as consideration for a violation of IC 35-48-4 (other than items subject to forfeiture under IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):
    - (A) furnished or intended to be furnished by any person in exchange for an act that is in violation of a criminal statute;
    - (B) used to facilitate any violation of a criminal statute; or
    - (C) traceable as proceeds of the violation of a criminal statute.
  - (3) Any portion of real or personal property purchased with money that is traceable as a proceed of a violation of a criminal statute.
  - (4) A vehicle that is used by a person to:
    - (A) commit, attempt to commit, or conspire to commit;
    - (B) facilitate the commission of; or
    - (C) escape from the commission of;
 murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense under IC 35-47 as part of or in furtherance of an act of terrorism.
  - (5) Real property owned by a person who uses it to commit any of the following as a Class A felony, a Class B felony, or a Class C felony:
    - (A) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).
    - (B) Dealing in methamphetamine (IC 35-48-4-1.1).
    - (C) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
    - (D) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
    - (E) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).
  - (6) Equipment and recordings used by a person to commit fraud under IC 35-43-5-4(10).
  - (7) Recordings sold, rented, transported, or possessed by a person in violation of IC 24-4-10.
  - (8) Property (as defined by IC 35-41-1-23) or an enterprise (as defined by IC 35-45-6-1) that is the object of a corrupt business influence violation (IC 35-45-6-2).
  - (9) Unlawful telecommunications devices (as defined in IC 35-45-13-6) and plans, instructions, or publications used to commit an offense under IC 35-45-13.
  - (10) Any equipment, ~~used or intended for use in preparing, photographing, recording, videotaping, digitizing, printing, copying, or disseminating matter in violation of IC 35-42-4-4.~~ **including computer equipment and cellular telephones, used for or intended for use in preparing, photographing, recording, videotaping, digitizing, printing, copying, or disseminating matter in violation of IC 35-42-4.**
  - (11) Destructive devices used, possessed, transported, or sold in violation of IC 35-47.5.
  - (12) Tobacco products that are sold in violation of IC 24-3-5, tobacco products that a person attempts to sell in violation of IC 24-3-5, and other personal property owned and used by a person to facilitate a violation of IC 24-3-5.
  - (13) Property used by a person to commit counterfeiting or forgery in violation of IC 35-43-5-2.
  - (14) After December 31, 2005, if a person is convicted of an offense specified in IC 25-26-14-26(b) or IC 35-43-10, the following real or personal property:
    - (A) Property used or intended to be used to commit, facilitate, or promote the commission of the offense.
    - (B) Property constituting, derived from, or traceable to the gross proceeds that the person obtained directly or indirectly as a result of the offense.
  - (15) Except as provided in subsection (e), a motor vehicle used by a person who operates the motor vehicle:
    - (A) while intoxicated, in violation of IC 9-30-5-1 through IC 9-30-5-5, if in the previous five (5) years the person has two (2) or more prior unrelated convictions:
      - (i) for operating a motor vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5; or
      - (ii) for an offense that is substantially similar to IC 9-30-5-1 through IC 9-30-5-5 in another jurisdiction; or
    - (B) on a highway while the person's driver's license is suspended in violation of IC 9-24-19-2 through IC 9-24-19-4, if in the previous five (5) years the person has two (2) or more prior unrelated convictions:
      - (i) for operating a motor vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5; or
      - (ii) for an offense that is substantially similar to IC 9-30-5-1 through IC 9-30-5-5 in another jurisdiction.
- If a court orders the seizure of a motor vehicle under this subdivision, the court shall transmit an order to the bureau of motor vehicles recommending that the bureau not permit a motor vehicle to be registered in the name of the person whose motor vehicle was seized until the person possesses a current driving license (as defined in IC 9-13-2-41).



(b) A vehicle used by any person as a common or contract carrier in the transaction of business as a common or contract carrier is not subject to seizure under this section, unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a).

(c) Equipment under subsection (a)(10) may not be seized unless it can be proven by a preponderance of the evidence that the owner of the equipment knowingly permitted the equipment to be used to engage in conduct that subjects it to seizure under subsection (a)(10).

(d) Money, negotiable instruments, securities, weapons, communications devices, or any property commonly used as consideration for a violation of IC 35-48-4 found near or on a person who is committing, attempting to commit, or conspiring to commit any of the following offenses shall be admitted into evidence in an action under this chapter as prima facie evidence that the money, negotiable instrument, security, or other thing of value is property that has been used or was to have been used to facilitate the violation of a criminal statute or is the proceeds of the violation of a criminal statute:

- (1) IC 35-48-4-1 (dealing in or manufacturing cocaine or a narcotic drug).
- (2) IC 35-48-4-1.1 (dealing in methamphetamine).
- (3) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance).
- (4) IC 35-48-4-3 (dealing in a schedule IV controlled substance).
- (5) IC 35-48-4-4 (dealing in a schedule V controlled substance) as a Class B felony.
- (6) IC 35-48-4-6 (possession of cocaine or a narcotic drug) as a Class A felony, Class B felony, or Class C felony.
- (7) IC 35-48-4-6.1 (possession of methamphetamine) as a Class A felony, Class B felony, or Class C felony.
- (8) IC 35-48-4-10 (dealing in marijuana, hash oil, or hashish) as a Class C felony.

(e) A motor vehicle operated by a person who is not:

- (1) an owner of the motor vehicle; or
- (2) the spouse of the person who owns the motor vehicle;

is not subject to seizure under subsection (a)(15) unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a)(15)."

Page 11, line 28, delete "(a)".

Page 11, line 31, strike "and".

Page 11, line 32, strike "one thousand".

Page 11, line 33, strike "(1,000)" and insert **"five hundred (500)"**.

Page 11, line 37, delete "." and insert ";

**(3) require the sex offender to consent:**

**(A) to the search of the sex offender's computer at any time; and**

**(B) to the installation on the sex offender's computer or device with Internet capability, at the sex offender's expense, of one (1) or more hardware or software systems to monitor Internet usage;**

**(4) prohibit the sex offender from:**

**(A) accessing or using certain web sites, chat rooms,**

**or instant messaging programs; and**

**(B) deleting, erasing, or tampering with information on the sex offender's computer that relates to the person's Internet usage; and**

**(5) prohibit the sex offender from loitering in public within five hundred (500) feet of school property, a public park, or a youth program center if children are present."**

Page 11, line 38, strike "one thousand".

Page 11, line 39, strike "(1,000)" and insert **"five hundred (500)"**.

Page 11, line 40, strike "one thousand (1,000)" and insert **"five hundred (500)"**.

Page 12, line 2, strike "one thousand (1,000)" and insert **"five hundred (500)"**.

Page 12, delete lines 3 through 29.

Page 13, between lines 32 and 33, begin a new paragraph and insert:

"SECTION 11. IC 35-42-4-7, AS AMENDED BY P.L.1-2005, SECTION 228, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) As used in this section, "adoptive parent" has the meaning set forth in IC 31-9-2-6.

(b) As used in this section, "adoptive grandparent" means the parent of an adoptive parent.

**(c) As used in this section, "armed forces recruiter" means a person who:**

- (1) has been ordered, assigned, or directed to perform recruiting activities for any branch of the active, reserve, or guard components of the armed forces; and**
- (2) engages in recruiting activities at a public or nonpublic school attended by a child who is alleged to be the victim of a crime under this section.**

**(d) As used in this section, "attending child" means a child who attends a school at which an armed forces recruiter engages in recruiting activities.**

**(e) As used in this section, "child care worker" means a person who:**

- (1) provides care, supervision, or instruction to a child within the scope of the person's employment in a shelter care facility; or
- (2) is employed by a:
  - (A) school corporation; or
  - (B) nonpublic school;
 attended by a child who is the victim of a crime under this chapter.

**(f) As used in this section, "custodian" means any person who resides with a child and is responsible for the child's welfare.**

**(g) As used in this section, "nonpublic school" has the meaning set forth in IC 20-18-2-12.**

**(h) As used in this section, "school corporation" has the meaning set forth in IC 20-18-2-16.**

**(i) As used in this section, "stepparent" means an individual who is married to a child's custodial or noncustodial parent and is not the child's adoptive parent.**

**(j) If a person who is:**

- (1) at least eighteen (18) years of age; and
- (2) the:

- (A) guardian, adoptive parent, adoptive grandparent, custodian, or stepparent of; or
- (B) child care worker for;

a child at least sixteen (16) years of age but less than eighteen (18) years of age;

engages with the child in sexual intercourse, deviate sexual conduct (as defined in IC 35-41-1-9), or any fondling or touching with the intent to arouse or satisfy the sexual desires of either the child or the adult, the person commits child seduction, a Class D felony.

**(k) If an armed forces recruiter who is at least eighteen (18) years of age engages in:**

- (1) sexual intercourse with an attending child;**
- (2) deviate sexual conduct (as defined in IC 35-41-1-9) with an attending child; or**
- (3) any fondling or touching of an attending child with the intent to arouse or satisfy the sexual desires of either the attending child or the armed forces recruiter;**

**the armed forces recruiter commits child seduction, a Class D felony."**

Page 14, line 21, strike "one thousand (1,000)" and insert **"five hundred (500)"**.

Page 15, line 24, after "(a)" insert **"This section applies only to a person required to register as a sex or violent offender under IC 11-8-8 who has been:**

- (1) found to be a sexually violent predator under IC 35-38-1-7.5; or**
- (2) convicted of one (1) or more of the following offenses:**

- (A) Child molesting (IC 35-42-4-3).**
- (B) Child exploitation (IC 35-42-4-4(b)).**
- (C) Possession of child pornography (IC 35-42-4-4(c)).**
- (D) Vicarious sexual gratification (IC 35-42-4-5(a) or IC 35-42-4-5(b)).**
- (E) Sexual conduct in the presence of a minor (IC 35-42-4-5(c)).**
- (F) Child solicitation (IC 35-42-4-6).**
- (G) Child seduction (IC 35-42-4-7).**
- (H) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age and the person is not the child's parent or guardian.**
- (I) Attempt to commit or conspiracy to commit an offense listed in clauses (A) through (H).**
- (J) An offense in another jurisdiction that is substantially similar to an offense described in clauses (A) through (H).**

**(b)".**

Page 15, line 26, after "that" insert **"requires a person to register or create an account, a username, or a password to become a member or registered user of the program and"**.

Page 15, line 26, delete "persons" and insert **"members or authorized users"**.

Page 15, line 27, after "text." insert **"The term does not include an electronic mail program or message board program."**

Page 15, line 28, delete "(b)" and insert **"(c)"**.

Page 15, line 32, after "(2)" insert **"requires a person to register or create an account, a username, or a password to become a member of the web site and to communicate with other members;**

**(3)".**

Page 15, line 32, delete "person" and insert **"member"**.

Page 15, line 34, delete "(3)" and insert **"(4)"**.

Page 15, line 34, delete "person who visits the web site" and insert **"member with"**.

Page 15, line 35, after "person." begin a new line blocked left and insert **"The term does not include an electronic mail program or message board program."**

Page 15, line 36, delete "(c) A sex offender (as defined in IC 11-8-8-4.5)" and insert **"(d) A person described in subsection (a)".**

Page 15, line 37, delete ":-".

Page 15, line 38, delete "(1)".

Page 15, run in lines 37 through 38.

Page 15, line 39, delete "(A)", begin a new line block indented and insert **"(1)".**

Page 15, line 40, delete "(B)", begin a new line block indented and insert **"(2)".**

Page 15, line 41, block left beginning with "that".

Page 16, line 1, delete "; and".

Page 16, delete lines 2 through 4.

Page 16, run in lines 1 through 5.

Page 16, line 5, after "felony." insert **"However, the offense is a Class C felony if the person has a prior unrelated conviction under this section."**

**(e) It is a defense to a prosecution under this section that the person:**

- (1) did not know that the web site or program allowed a person who is less than eighteen (18) years of age to access or use the web site or program;**
- (2) upon discovering that the web site or program allows a person who is less than eighteen (18) years of age to access or use the web site or program, immediately ceased further use or access of the web site or program."**

Page 16, between lines 5 and 6, begin a new paragraph and insert:

**"SECTION 37. IC 35-42-4-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) This section does not apply to the following:**

- (1) A parent, guardian, or custodian of the child.**
- (2) A person who acts with the permission of the child's parent, guardian, or custodian.**
- (3) A person to whom the child makes a report of abuse or neglect.**
- (4) A person to whom the child reports medical symptoms that relate to or may relate to sexual activity.**

**(b) As used in this section, "sexual activity" means sexual intercourse, deviate sexual conduct, or the fondling or touching of the buttocks, genitals, or female breasts.**

**(c) A person at least twenty-one (21) years of age who knowingly or intentionally communicates with an individual**

whom the person believes to be a child less than fourteen (14) years of age concerning sexual activity with the intent to:

- (1) gratify the sexual desires of the person or the individual; or
- (2) entice the individual to meet the person in another location;

commits inappropriate communication with a child, a Class B misdemeanor. However, the offense is a Class A misdemeanor if the person commits the offense by using a computer network (as defined in IC 35-43-2-3(a)).

SECTION 38. IC 35-42-4-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) An offender against children (as defined in section 11 of this chapter) who, knowing that children are present, enters school property, a public park, or a youth program center commits child offender trespassing, a Class D felony.

(b) It is a defense to a prosecution under this section:

- (1) that the person entered the school property, public park, or youth program center to vote; or
- (2) that the person entered the school property to attend a meeting with school personnel relating to the person's child, if:

- (A) the person notified the school that the person is an offender against children; and
- (B) a school employee accompanied the person to and from the meeting.

SECTION 39. IC 35-45-4-5, AS AMENDED BY P.L.7-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) As used in this section, "nudity" means the showing of the human male or female genitals, pubic area, or buttocks, or the showing of the female breast with less than a fully opaque covering of any part of the nipple.

(b) As used in this section, "peep" means any looking that is of a clandestine, surreptitious, prying, or secretive nature.

(c) As used in this section, "photograph" means photographing, filming, videotaping, or creating a digitized image. The term includes using a cellular telephone, a camera, a video camera, or any other type of video recording device to create an image.

~~(a)~~ (d) A person:

- (1) who:
  - (A) peeps; or
  - (B) goes upon the land of another with the intent to peep;
 into an occupied dwelling of another person; or
- (2) who peeps into an area where an occupant of the area reasonably can be expected to disrobe, including:
  - (A) restrooms;
  - (B) baths;
  - (C) showers; and
  - (D) dressing rooms;

without the consent of the other person, commits voyeurism, a Class B misdemeanor.

~~(b)~~ (e) However, the offense under subsection ~~(a)~~ (d) is a Class D felony if:

(1) it is knowingly or intentionally committed by means of a camera, a video camera, or any other type of video recording device; or

(2) the person who commits the offense has a prior unrelated conviction:

- (A) under this section; or
- (B) in another jurisdiction, including a military court, for an offense that is substantially similar to an offense described in this section.

~~(c)~~ "Peep" means any looking of a clandestine, surreptitious, prying, or secretive nature.

(f) A person who, without the consent or knowledge of the other person:

(1) knowingly or intentionally photographs another person who:

(A) is in an area in which an occupant of the area reasonably can be expected to disrobe, including:

- (i) restrooms;
- (ii) baths;
- (iii) showers; and
- (iv) dressing rooms; and

(B) is in a state of nudity;

commits photographic voyeurism, a Class B misdemeanor.

(g) This subsection does not apply to a person who consents in writing to be photographed in a state of nudity. A person who:

(1) photographs another person who is in a state of nudity; and

(2) knowingly or intentionally fails to destroy the image that was photographed after being requested to do so by the person who is the subject of the photograph;

commits photographic voyeurism, a Class C misdemeanor. It is not a defense to a prosecution under this subsection that the other person verbally consented to being photographed in a state of nudity.

(h) An offense described in subsections (f) and (g) is:

(1) a Class A misdemeanor if the person who photographs the other person knowingly or intentionally shows the photograph to another person;

(2) a Class D felony if the person who photographs the other person knowingly or intentionally:

- (A) publishes the photograph;
- (B) makes the photograph available on the Internet; or

(3) a Class C felony if the person who photographs the other person has a prior unrelated conviction under subsection (f) or (g), or has a prior unrelated conviction in another jurisdiction for an offense that is substantially similar to an offense described in subsection (f) or (g).

SECTION 40. IC 35-45-10-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) This section does not apply to:

- (1) the parent, guardian, or custodian of a child;
- (2) a person acting with the permission of the parent, guardian, or custodian of a child; or

(3) a person whose job requires the person to follow, pursue, or attempt to contact the child.

(b) A person who is at least twenty-one (21) years of age who knowingly or intentionally repeatedly:

- (1) follows;
- (2) pursues; or
- (3) attempts to contact;

a child less than ten (10) years of age commits child stalking, a Class D felony.

(c) It is a defense to a prosecution under this section that the person reasonably believed that repeatedly following, pursuing, or attempting to contact the child was in the best interests of the child.

SECTION 41. IC 36-2-13-5.5, AS AMENDED BY P.L.216-2007, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5.5. (a) The sheriffs shall jointly establish and maintain an Indiana sex and violent offender registry web site, known as the Indiana sex and violent offender registry, to inform the general public about the identity, location, and appearance of every sex or violent offender residing within Indiana. The web site must provide information regarding each sex or violent offender, organized by county of residence. The web site shall be updated at least daily.

(b) Except as provided in subsection (f), the Indiana sex and violent offender registry web site must include the following information:

- (1) A recent photograph of every sex or violent offender who has registered with a sheriff after the effective date of this chapter.
- (2) The home address of every sex or violent offender.
- (3) The information required under IC 11-8-8-8.

(c) Every time a sex or violent offender registers, but at least once per year, the sheriff shall:

- (1) photograph the sex or violent offender; and
- (2) determine whether the sex or violent offender's fingerprints are on file:
  - (A) in Indiana; or
  - (B) with the Federal Bureau of Investigation.

If it appears that the sex or violent offender's fingerprints are not on file as described in subdivision (2), the sheriff shall fingerprint the sex or violent offender and transmit a copy of the fingerprints to the state police department. The sheriff shall place the photograph described in subdivision (1) on the Indiana sex and violent offender registry web site.

(d) The photograph of a sex or violent offender described in subsection (c) must meet the following requirements:

- (1) The photograph must be full face, front view, with a plain white or off-white background.
- (2) The image of the offender's face, measured from the bottom of the chin to the top of the head, must fill at least seventy-five percent (75%) of the photograph.
- (3) The photograph must be in color.
- (4) The photograph must show the offender dressed in normal street attire, without a hat or headgear that obscures the hair or hairline.
- (5) If the offender normally and consistently wears prescription glasses, a hearing device, wig, or a similar article, the photograph must show the offender wearing

those items. A photograph may not include dark glasses or nonprescription glasses with tinted lenses unless the offender can provide a medical certificate demonstrating that tinted lenses are required for medical reasons.

(6) The photograph must have sufficient resolution to permit the offender to be easily identified by a person accessing the Indiana sex and violent offender registry web site.

(e) The Indiana sex and violent offender registry web site may be funded from:

- (1) the jail commissary fund (IC 36-8-10-21);
- (2) a grant from the criminal justice institute; and
- (3) any other source, subject to the approval of the county fiscal body.

(f) The:

- (1) photograph; and
- (2) home address;

of a sex and violent offender whose registration period has expired shall be removed from any part of the web site that may be accessed by the general public.

SECTION 42. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 11-8-8-1; IC 11-8-8-6."

Page 16, line 6, after "IC 35-42-4-12," insert "IC 35-42-4-13, IC 35-42-4-14, and IC 35-45-10-6, all".

Page 16, line 7, after "IC 35-42-4-3," insert "IC 35-42-4-7, IC 35-42-4-11, IC 35-45-4-5, IC 11-8-8-17, and IC 11-8-8-18, all".

Renumber all SECTIONS consecutively.

(Reference is to HB 1134 as reprinted January 30, 2008.) and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 1.

STEELE, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Engrossed House Bill 1288, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

STEELE, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Engrossed House Bill 1187, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 2, line 6, reset in roman "includes".

Page 2, line 7, reset in roman "authorization by written ballot and".

Page 3, delete lines 12 through 21.

Page 3, line 22, reset in roman "(d)".

Page 3, line 22, delete "(e)".

Page 7, delete lines 6 through 42.

Page 8, delete lines 1 through 38.  
 Page 10, delete lines 1 through 6.  
 Renumber all SECTIONS consecutively.  
 (Reference is to HB 1187 as printed January 25, 2008.)  
 and when so amended that said bill do pass.  
 Committee Vote: Yeas 8, Nays 0.

STEELE, Chair

Report adopted.

## RESOLUTIONS ON FIRST READING

### Senate Concurrent Resolution 54

Senate Concurrent Resolution 54, introduced by Senator Meeks:

A CONCURRENT RESOLUTION recognizing the Indiana State Police Department on its 75<sup>th</sup> anniversary.

*Whereas, The Indiana State Police Department was established in 1933 in response to the expansion of organized crime during the great depression and the emerging prominence of the motor vehicle in daily life;*

*Whereas, The Indiana State Police began with 66 recruits. By 1937, the department had a total of 170 officers. The department created an aviation division in 1947 and then in 1951 the department expanded again, adding 25 new full-time officers for the new Motor Carrier Division to address commercial vehicle traffic regulations;*

*Whereas, While working hard to keep Indiana citizens safe, the Indiana State Police Department became a national leader by pioneering the use of the Breathalyzer alcohol testing instrument;*

*Whereas, Since its inception, the Indiana State Police Department has been noted for its service to the people of Indiana, the dedication of its employees (both police and civilian) in the detection and apprehension of criminals, and the enhancement of safety on Indiana's roadways,*

*Whereas, During this time of dedication and service, 45 members of the Indiana State Police have made the ultimate sacrifice while serving the people of the State of Indiana; and*

*Whereas, Indiana takes great pride in recognizing the Indiana State Police Department on the 75<sup>th</sup> anniversary of its founding: Therefore,*

*Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:*

SECTION 1. That the Indiana General Assembly recognizes the Indiana State Police Department on its 75<sup>th</sup> anniversary and commends the achievement and dedication of the men and women who have honorably served the State of Indiana as members of the Department.

SECTION 2. The Secretary of the Senate is hereby directed to

transmit copies of this Resolution to the Superintendent of the Indiana State Police.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsor: Representative Tincher.

## SENATE MOTION

Madam President: I move that Senators Alting, Arnold, Becker, Boots, Bray, Breaux, Broden, Charbonneau, Deig, Delph, Dillon, Drozda, Errington, Ford, Gard, Hershman, Howard, Hume, Jackman, Kenley, Kruse, Lanane, Landske, Lawson, Lewis, Long, Lubbers, Merritt, Miller, Mishler, Mrvan, Nugent, Paul, Riegsecker, Rogers, Simpson, Sipes, Skinner, Smith, Steele, Tallian, Walker, Waltz, Waterman, Weatherwax, Wyss, M. Young, R. Young, and Zakas be added as coauthors of Senate Concurrent Resolution 54.

MEEKS

Motion prevailed.

### Senate Resolution 27

Senate Resolution 27, introduced by Senators Wyss, Long, and Kruse:

A SENATE RESOLUTION honoring Alison Mansfield for receiving a 2008 Prudential Spirit of Community Award.

*Whereas, Alison Mansfield, an esteemed resident of Fort Wayne and a student at Summit Middle School, has achieved national recognition for exemplary volunteer service by receiving a 2008 Prudential Spirit of Community Award;*

*Whereas, This prestigious award, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities;*

*Whereas, Ms. Mansfield earned this award by giving generously of her time and energy to collect large quantities of personal-care items, cookies, and letters of support for service members serving in Iraq and recuperating back in the United States at Walter Reed Army Medical Center, and*

*Whereas, The success of the State of Indiana, the strength of our communities, and the overall vitality of American society depend, in great measure, upon the dedication of young people like Ms. Mansfield who use their considerable talents and resources to serve others: Therefore,*

*Be it resolved by the Senate of the General Assembly of the State of Indiana:*

SECTION 1. That the Indiana Senate congratulates and honors Alison Mansfield as a recipient of a Prudential Spirit of

Community Award, recognizes her outstanding record of volunteer service, peer leadership, and community spirit, and extends best wishes for her continued success and happiness.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Alison Mansfield and her family.

The resolution was read in full and adopted by voice vote.

#### Senate Resolution 24

Senate Resolution 24, introduced by Senator Lubbers:

A SENATE RESOLUTION honoring Dr. Joan B. Malick on her retirement from the Second Presbyterian Church.

*Whereas, Joan B. Malick was born in Shaker Heights, Ohio. After graduating from the Laurel School for Girls, she continued her education at the Boston University of Fine Arts and Education where she achieved the honor of being named to the Dean's List of Special Distinction;*

*Whereas, Dr. Malick was selected to be a Harvard University Summer Intern in the Hospital Improvement Program at the Walter E. Fernald State School for the Mentally Ill and Mentally Retarded under the direction of Dr. B.F. Skinner. She obtained a counseling and therapy certificate at Menninger Hospital and Foundation in Topeka, Kansas and a Ph.D. in Philosophy/Women's Studies at the Union Institute in Cincinnati, Ohio. She was a finalist for the Award for Outstanding Scholarship and Original Research. She also obtained a Spanish by Immersion Certificate from Dartmouth College in Hanover, New Hampshire;*

*Whereas, On August 22, 1988, Dr. Malick was hired by the Second Presbyterian Church in Indianapolis as Associate Minister with responsibilities in Early Childhood Ministries, Women's Ministries, Deacons Community Committee, Parish Life Committee, and Mission and Benevolence Committee. Then, in 1999, she worked with Dr. William Enright under the title of Executive Pastor assisting in supervisory and administrative responsibilities;*

*Whereas, Dr. Malick has also been a vital part of Second Presbyterian Church's various mission programs for twenty years. She has been instrumental in the church's Christmas Benevolence Program that benefits nearly 200 families every Christmas season. Dr. Malick has been active in various youth and young adult educational programs and has been tireless in her devotion to the congregation. She has helped with many committees, fund drives, community outreach programs, and benefits; and*

*Whereas, Dr. Malick is currently serving on the Board of Trustees of McCormick Seminary in Chicago and the Council of Whitewater Valley Presbytery. In August 2008, Dr. Malick will retire as Executive Co-Pastor of the Second Presbyterian Church after twenty years of selfless service. Although she will be greatly missed by the congregation, Second Presbyterian will always be blessed by her tremendous legacy: Therefore,*

*Be it resolved by the Senate of the General Assembly of the State of Indiana:*

SECTION 1. That the Indiana Senate honors Dr. Joan B. Malick on her retirement from the Second Presbyterian Church.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to the Second Presbyterian Church and Dr. Joan B. Malick.

The resolution was read in full and adopted by voice vote.

#### House Concurrent Resolution 26

House Concurrent Resolution 26, sponsored by Senator Boots:

A CONCURRENT RESOLUTION recommending that the Indiana Department of Transportation designate a Memorial Mile on Interstate 65 honoring Master Trooper Michael Greene.

*Whereas, Michael Earl Greene was born in Lebanon, Indiana, and spent most of his life as a proud resident of Boone County;*

*Whereas, Michael Earl Greene, a devoted father to his son and daughter, was called to serve and protect his fellow citizens, became an officer with the Indiana State Police, and rose to the rank of Master Trooper;*

*Whereas, Master Trooper Michael Greene was last assigned to the Indianapolis post;*

*Whereas, Master Trooper Michael Greene, at the young age of 43, was killed in the line of duty on February 5, 1993;*

*Whereas, While stopping to question two men who were outside of their vehicle along the side of Interstate 65 in Marion County, Master Trooper Michael Greene learned that both men were wanted on outstanding warrants;*

*Whereas, As he was handcuffing the first of the two suspects, the second suspect fatally shot Master Trooper Michael Greene in the chest;*

*Whereas, Master Trooper Michael Greene served the Indiana State Police with honor for over 16 years;*

*Whereas, Master Trooper Michael Greene gave his life in service to the state and country that he loved: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:*

SECTION 1. That the Indiana General Assembly expresses its deepest gratitude for the life and service of Master Trooper Michael Greene and urges the Indiana Department of Transportation to designate a Memorial Mile on Interstate 65 in his honor.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the

commissioner of the Indiana Department of Transportation and to the Greene family.

The resolution was read in full and adopted by standing vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

#### Senate Resolution 22

Senate Resolution 22, introduced by Senator Landske:

A SENATE RESOLUTION congratulating Hanover Central senior, Andrew Howe on winning the IHSAA Individual 160-Pound State Wrestling Title.

*Whereas, Andrew Howe capped off his high school wrestling career by winning his third straight State championship at the 70<sup>th</sup> Annual IHSAA Individual Wrestling State Finals held at Conseco Fieldhouse in Indianapolis;*

*Whereas, Andrew has enjoyed great success throughout his entire wrestling career, dominating the competition and finishing with an outstanding 192-1 record;*

*Whereas, Andrew's only loss in four years occurred when, as a freshman, he competed against the three-time state champion in the title match; and*

*Whereas, Wisconsin bound in the fall, Andrew certainly has an exciting future ahead of him in college wrestling. The citizens of Indiana commend Andrew on his hard work and dedication to the sport of wrestling: Therefore,*

*Be it resolved by the Senate of the General Assembly of the State of Indiana:*

SECTION 1. That the Indiana Senate congratulates Andrew Howe on winning the IHSAA Individual 160-Pound State Wrestling Title.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Hanover Central Superintendent, Dr. Michael P. Livovich, Jr.; Principal, Joseph Fetty; Coach, Nick Petrov; and Andrew Howe.

The resolution was read in full and adopted by voice vote.

#### Senate Resolution 29

Senate Resolution 29, introduced by Senator Weatherwax:

A SENATE RESOLUTION commending Dave Minich of Minich May Family Farms on being honored as one of the top farm managers in the nation by Top Producer magazine.

*Whereas, Dave Minich, a Purdue University graduate, began his agricultural career in the hog business. Since then, he has expanded his farm to include 6,000 acres in four counties and produces corn and soybeans;*

*Whereas, As a respectable and fair businessman, Mr. Minich was nominated for the Top Producer of the Year Award by*

*AgriGold Hybrid, one of his suppliers. By November, Dave was notified that he was a finalist, but he would not know who won until the award presentation. On January 17, 2008, Dave Minich was presented with the Top Producer of the Year Award at a business seminar for farmers in Chicago;*

*Whereas, The Top Producer of the Year Award recognizes excellence in entrepreneurial originality, financial and business-related progress, and leadership in the industry or community; and*

*Whereas, Dave Minich attributes this recognition to the innovative things the Minich May Family Farms have done and their involvement in community activities. In addition to the honor, Dave Minich will receive a six-month or 200-hour lease for either a Challenger MT 700 track tractor or a Challenger MT 600 wheeled tractor: Therefore,*

*Be it resolved by the Senate of the General Assembly of the State of Indiana:*

SECTION 1. That the Indiana Senate commends Dave Minich of Minich May Family Farms on being honored as one of the top farm managers in the nation by Top Producer magazine.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Dave Minich.

The resolution was read in full and adopted by voice vote.

#### Senate Resolution 25

Senate Resolution 25, introduced by Senators Merritt, Lawson, and Long:

A SENATE RESOLUTION honoring the Zhejiang Province of the People's Republic of China.

*Whereas, Indiana and the Zhejiang Province of the People's Republic of China, who have had a Sister State/Province relationship since 1987, recently celebrated the 20th anniversary of their partnership;*

*Whereas, As a result of this partnership, many delegations from Zhejiang Province have visited Indiana, including one delegation led by Mr. WU Guohua, Vice President, Zhejiang Provincial Committee of the CPPCC, and Chairman, Zhejiang Provincial Committee of the China National Democratic Construction Association;*

*Whereas, In 1987, Indiana established one of the earliest state offices in Beijing, primarily to promote increased trade and investment between China and Indiana;*

*Whereas, China is one of Indiana's top ten export markets with close to \$600 million in exports in 2006;*

*Whereas, Several Indiana businesses have offices in China, including Cummins, Inc. which began doing business in China in the 1970s and has had its regional office for Asia in Beijing since the 1990s;*

*Whereas, In addition, more than 40 Indiana-based companies are doing business in China, including Allison Transmission, Delta Faucet Company, Dow AgroSciences, Kimball International, Roche Diagnostics and Rolls Royce Corporation;*

*Whereas, Under the leadership of President Michael McRobbie and Vice President Patrick O'Meara, Indiana University has developed a relationship with two major Chinese universities as key strategic partners in Asia;*

*Whereas, Indiana University and Zhejiang University (ZJU) have a history of 25 years of formal relations; and, in November 2007, the two universities celebrated the 25th anniversary of their relationship with a symposium on higher education and issues of technology transfer;*

*Whereas, The Indiana University School of Law and the Zhejiang University Guanghua School of Law and the Kelley School of Business and the Zhejiang University School of Management recently signed a new exchange agreement;*

*Whereas, As home to Internet II, the academic internet network for North America, Indiana University established an important linkage with Tsinghua University; the North American network is linked to CERNET, providing a critical conduit for the flow of research information between China and the United States;*

*Whereas, Indiana University initiated the Research Center for Chinese Politics and Business to explore the relationships between business and politics and also conducts research in its School for Public and Environmental Affairs;*

*Whereas, Indiana University also has agreements with several universities and institutions in China, including Beijing Sport University, Chengdu Sport University, the China Scholarship Council, China University of Political Science and Law, Fudan University, Hohai University, Hunan University, Nankai University, Peking University, Tianjin Normal University, and Tongji University;*

*Whereas, The first Chinese student graduated from Purdue University almost a century ago;*

*Whereas, There are currently 778 students enrolled at Purdue University and 223 Chinese faculty are employed there, making China the single largest source of Purdue University's foreign-born faculty;*

*Whereas, Information Technology at Purdue (ITAP) is collaborating with the Tsing Hau University faculty and technologists on high performance computing, grid computing, and cyber infrastructure development and further collaborating with the Chinese Academy of Sciences;*

*Whereas, The Office of International Programs and the Krannert School of Management have a long standing relationship with Tsing Hau University in a variety of activities*

*involving student and faculty relationships;*

*Whereas, Purdue University has developed lasting exchanges and close working relationships with several universities and institutes including Shanghai Jiao Tong University, Ningbo University and the Harbin Institute of Technology, Beijing Electric Power College, Beijing Institute of Tourism, Chang Chun Academy of Agricultural Science, China Agricultural University, Civil Aviation University of China, Graduate University of Chinese Academy of Sciences, Hong Kong Baptist University, Hong Kong Polytechnic University, Nankai University, Peking University, Shandong Ag University, University of Science and Technology of China, Zhejiang University, Northwest Agricultural and Forestry University, Communication University of China, Guang Zhou International Tourism Institute, South China University of Technology, Southern Yangtze University, and Dalin University;*

*Whereas, Indiana University Purdue University - Indianapolis and Sun Yat-sen University have created a partnership between the two universities' Schools of Medicine;*

*Whereas, The Indiana University Purdue University - Indianapolis School of Law and the Renmin University School of Law have developed a very productive relationship that has resulted in exchange and training activities, supported in part by a grant from the United States Department of State; and*

*Whereas, There are three Chinese government supported Confucius Centers in Indiana, at Indiana University (Indianapolis and Bloomington campuses), Purdue University, and Valparaiso University, with each center providing important outreach for the teaching of Chinese language and culture to the business and academic communities: Therefore,*

*Be it resolved by the Senate of the  
General Assembly of the State of Indiana:*

SECTION 1. That the Indiana Senate hereby pledges its support to further cooperation between the American and Chinese people in the fields of education, industry and business. This cooperation will help increase opportunities for all so that the people of both societies may share peace and prosperity throughout the millennium.

The resolution was read in full and adopted by voice vote.

#### **Senate Resolution 28**

Senate Resolution 28, introduced by Senators Simpson, Altling, and Lubbers:

A SENATE RESOLUTION to declare March 5, 2008, a statewide Graduate Education Day celebrating Indiana University, Purdue University, and Indiana University-Purdue University Indianapolis (IUPUI).

*Whereas, Citizens from Indiana and people throughout the world find a rich learning environment for developing*



*knowledge, skills and creativity, and for conducting research in our highly ranked masters, professional, and doctoral programs;*

*Whereas, Students and faculty in IU and Purdue graduate programs contribute to important research and creative activity that enhances career opportunities and fosters a high quality of life for all Indiana citizens;*

*Whereas, Purdue University, Indiana University, and IUPUI currently enroll 27,623 graduate students in programs of national prominence, such as Health and Life Sciences, Engineering and Technology, Agriculture, Business, Law, Education, Art, Music, Informatics, Liberal Arts, Philanthropy, Physical Sciences, Public Affairs & Environmental Science, Social Work, and more than 70 different language programs; and*

*Whereas, Graduates with advanced degrees are creating jobs, contributing to productive work environments, and enhancing health and cultural well-being that benefits all citizens of Indiana: Therefore,*

*Be it resolved by the Senate of the  
General Assembly of the State of Indiana:*

SECTION 1. The Indiana General Assembly is urged to create a statewide Graduate Education Day celebrating Indiana University, Purdue University, and Indiana University-Purdue University Indianapolis (IUPUI) on March 5, 2008.

SECTION 2. That the Secretary of the Senate is directed to transmit a copy of this resolution to Indiana University, Purdue University and Indiana University-Purdue University Indianapolis.

The resolution was read in full and adopted by voice vote.

### **House Concurrent Resolution 35**

House Concurrent Resolution 35, sponsored by Senator Weatherwax:

A CONCURRENT RESOLUTION recommending that the Indiana Department of Transportation designate a Memorial Mile on State Road 17 in downtown Logansport honoring Trooper Daniel Roy Barrett.

*Whereas, Trooper Daniel Roy Barrett was born October 27, 1982, to proud parents Vincent and Sarah Barrett and grew up in Logansport, Indiana with his brothers Matthew and Patrick and sister Laura;*

*Whereas, Daniel Barrett was devoted to his family and loved spending time with them, especially his Nana, Jane Hanna;*

*Whereas, An honors graduate from Logansport High School, Daniel Barrett received the school's Academic Achievement Award for outstanding drafting and design, and in 2002, wrote the book, Where is Tomorrow?*

*Whereas, In addition to law enforcement, Daniel Barrett enjoyed a variety of interests including fishing, hunting and*

*riding four-wheelers;*

*Whereas, Daniel Barrett served the state as a correctional officer prior to joining the Indiana State Police;*

*Whereas, A graduate of the 67<sup>th</sup> Indiana State Police Recruit Academy on July 6, 2007, Trooper Daniel Barrett was assigned to patrol primarily in Fulton County;*

*Whereas, Trooper Daniel Barrett, at the young age of 25, was killed in a single vehicle crash along U.S. 31 while on duty Sunday, January 27, 2008;*

*Whereas, Trooper Daniel Roy Barrett served his state with honor, was a friend to all who knew him, and will be greatly missed and long remembered: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana,  
the Senate concurring:*

SECTION 1. That the Indiana General Assembly expresses its deepest regrets to the family of Trooper Daniel Roy Barrett, thanks them for his dedicated service to the citizens of Indiana, and urges the Indiana Department of Transportation to designate a Memorial Mile on State Road 17 in downtown Logansport in his honor.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to the commissioner of the Indiana Department of Transportation and to the Barrett family.

The resolution was read in full and adopted by standing vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

### **Senate Resolution 20**

Senate Resolution 20, introduced by Senator Waltz:

A SENATE RESOLUTION recognizing teacher John M. Frank for his efforts to honor Center Grove High School graduates who are serving the United States military.

*Whereas, John M. Frank is a history teacher at Center Grove High School and has been devoted to the profession for thirty years;*

*Whereas, John's son, 1<sup>st</sup> Lt. John F. Frank, is an Army officer station in Korea;*

*Whereas, Because of his utmost respect for the military and the personal connection through his son, John has started an initiative to display pictures and personal information of all Center Grove graduates who are members of the United States Armed Forces in the high school cafeteria;*

*Whereas, To date, John has received thirty submissions for the display and he anticipates many more to come. He has found that other military parents appreciate the opportunity to*

*recognize the service of their sons and daughters and he hopes that this display will encourage other students to answer the patriotic call to serve; and*

*Whereas, The display will be a constant reminder to Center Grove students of the bravery of those who graduated before them: Therefore,*

*Be it resolved by the Senate of the  
General Assembly of the State of Indiana:*

SECTION 1. That the Indiana Senate recognizes John M. Frank on his efforts to honor Center Grove graduates who are serving in the United States Armed Forces.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Center Grove Superintendent, Dr. Steven Stephanoff, Principal, Matt Shockley, and John M. Frank.

The resolution was read in full and adopted by voice vote.

#### **House Concurrent Resolution 28**

House Concurrent Resolution 28, sponsored by Senators Walker and Waltz:

A CONCURRENT RESOLUTION to recognize the annual "Victory Days" event.

*Whereas, The State of Indiana is fortunate to host the annual "Victory Days" living history museum and event which is designed to honor, preserve, and perpetuate the memory and sacrifices made by many Americans during World War II;*

*Whereas, The era of the 1940s is recreated at the Columbus Municipal Airport, where guests can step back in time to experience an authentic re-enactment of both military and civilian life;*

*Whereas, The Columbus Municipal Airport is the perfect home to this event, as its very airfields were opened in 1943 as the Atterbury Air Force Base. The base served as a training field for medium-sized bombers and gliders and throughout World War II, was used as a landing field for military planes bringing wounded soldiers to Wakeman Hospital Center at the Army's Camp Atterbury. The base continued to play an active role in the Korean and Vietnam wars before being deeded to the City of Columbus;*

*Whereas, Education is the focus of the event, and specific programs are offered for elementary, middle, and high school students to learn about this historic period of time;*

*Whereas, In addition to engaging with the hundreds of authentic re-enactors, guests can view a vast collection of military and civilian aircraft, classic automobiles, equipment, farm implements and even a steam locomotive powered train which is available to transport guests between Indianapolis and Columbus;*

*Whereas, Guests can enjoy event activities such as viewing a parade recreating a 1943 War Bonds rally, participating as a live audience member for a 1940s vintage radio program, dancing to the sounds of big band during a USO Dance, or catch a viewing of "Casablanca";*

*Whereas, The Victory Days celebration will next be held October 3, 4, and 5 at the Columbus Municipal Airport with Habitat for Humanity being designated at this year's sole beneficiary of proceeds collected;*

*Whereas, This event offers a unique window into our nation's "greatest generation" and is a coveted attraction for countless Hoosiers and out-of-state guests: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana,  
the Senate concurring:*

SECTION 1. That the Indiana General Assembly is proud to recognize "Victory Days" and appreciates all the hard work that goes into this annual educational and charitable event.

SECTION 2. That the Principal Clerk of the House of Representatives submit a copy of this resolution to the "Victory Days" organization and to the City of Columbus.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

#### **House Concurrent Resolution 19**

House Concurrent Resolution 19, sponsored by Senators Dillon and Weatherwax:

A CONCURRENT RESOLUTION recommending that the Indiana Department of Transportation designate a Memorial Mile on U.S. Highway 24 on the bypass at Wabash, Indiana, honoring Master Trooper Detective David E. Rich.

*Whereas, Master Trooper Detective David E. Rich was a devoted husband, loving father and son, and good friend to many;*

*Whereas, It was his compassionate and caring nature that made him stop to help someone he believed to be in need;*

*Whereas, Master Trooper Detective David E. Rich gave his life in the line of duty; and*

*Whereas, It is indeed fitting and proper that special recognition be given to this brave trooper: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana,  
the Senate concurring:*

SECTION 1. That the Indiana General Assembly urges the Indiana Department of Transportation to designate a Memorial

Mile on U.S. Highway 24 on the bypass at Wabash, Indiana, honoring Master Trooper Detective David E. Rich.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to the family of Master Trooper Detective David E. Rich and the commissioner of the Indiana Department of Transportation.

The resolution was read in full and adopted by standing vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

### Senate Resolution 30

Senate Resolution 30, introduced by Senator Dillon:

A SENATE RESOLUTION urging the Legislative Council to direct the Pension Management Oversight Commission to study the issue of employee classification.

*Whereas, Many issues pertaining to employee classification were identified in HB 1269 in the 2008 session; and*

*Whereas, Before enacting legislation, further consideration and study of these issues is warranted: Therefore,*

*Be it resolved by the Senate of the  
General Assembly of the State of Indiana:*

SECTION 1. That the Legislative Council is urged to direct the Pension Management Oversight Commission to study issues related to employee classification as identified in HB 1269 from the 2008 session.

SECTION 2. That the committee, if so directed, shall operate under the direction of the Legislative Council and shall issue a final report when directed to do so by the Council.

SECTION 3. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to the Legislative Council.

The resolution was read in full and adopted by voice vote.

### Senate Resolution 23

Senate Resolution 23, introduced by Senator Hershman:

A SENATE RESOLUTION urging the Legislative Council to direct the Regulatory Flexibility Committee to study the work of utility companies as it impacts private property.

*Whereas, Utility companies must modify the private property of their customers on a daily basis in order to provide basic services (i.e. installation of wires and/or cables, tree trimming, etc.);*

*Whereas, Private property owners have expressed grievances as to how their property has been altered by the work of utility companies: Therefore,*

*Be it resolved by the Senate of the  
General Assembly of the State of Indiana:*

SECTION 1. That the Legislative Council is urged to direct the Regulatory Flexibility Committee to study the work of utility companies as it impacts private property.

SECTION 2. That, if so directed, the Regulatory Flexibility Committee should consider at least the following issues:

(1) What industry practices are in place and commonly used when private property must be altered.

(2) What grievances constituents have as related to this issue.

SECTION 3. That the committee, if directed to study this issue, shall operate under the direction of the Legislative Council and that the committee shall issue a final report when directed to do so by the council.

The resolution was read in full and adopted by voice vote.

### Senate Resolution 31

Senate Resolution 31, introduced by Senator Breaux:

A SENATE RESOLUTION urging the Legislative Council to assign the topic of automated traffic control systems to a committee for further study during the interim.

*Whereas, It is important to maintain the safety of workers of a construction or maintenance zone from speeding motor vehicles by installing an automated traffic control system in the construction or maintenance zone and issuing traffic tickets to violators;*

*Whereas, The running of red lights at intersections results in an estimated one hundred thousand motor vehicle accidents and one thousand fatalities annually in the United States; and*

*Whereas, Automated traffic control systems is an important topic affecting Hoosiers that deserves serious consideration from the legislature: Therefore,*

*Be it resolved by the Senate of the  
General Assembly of the State of Indiana:*

SECTION 1. That the Legislative Council is urged to assign the topic of automated traffic control systems to a committee for study and research during the interim.

SECTION 2. That the committee, if established, shall operate under the direction of the legislative council, and that the committee shall issue a final report when directed to do so by the council.

The resolution was read in full and adopted by voice vote.

### Senate Resolution 26

Senate Resolution 26, introduced by Senator Kruse:

A SENATE RESOLUTION urging the legislative council to assign the topic of certain issues concerning the prosecuting attorneys retirement fund to the Pension Management Oversight Commission.

*Whereas, Prosecuting attorneys are a vital part of Indiana's criminal justice system: Therefore,*

*Be it resolved by the Senate of the  
General Assembly of the State of Indiana:*

SECTION 1. That the legislative council is urged to assign the topic of certain issues concerning the prosecuting attorneys retirement fund to the Pension Management Oversight Commission.

SECTION 2. That the committee shall include in its study the following topics:

- (1) Whether the definition of "salary", for purposes of computing a retirement benefit, should include the total salary paid by the state and by a county or counties to a participant in the prosecuting attorneys retirement fund (fund).
- (2) Whether the participant contribution rate should be increased from 6% to 8.2% of salary.
- (3) Whether contributions to the fund should be eliminated for a participant with at least 22 years of service.
- (4) Whether the reduction factor for a retirement benefit computed for a participant who retires before 65 years of age should be reduced from 0.25% to 0.10% per month.
- (5) Whether the retirement benefit should be prorated for partial years of service.
- (6) Whether the disability benefit should be changed by:
  - (A) eliminating the minimum service required to receive a disability benefit;
  - (B) redefining "disability"; and
  - (C) increasing the salary percentages used to compute a disability benefit to equal the percentages used by the judges' retirement system for the same years of service.
- (7) Whether the minimum annual survivor benefit should be increased from \$7,000 to \$12,000.

The resolution was read in full and adopted by voice vote.

### **Senate Resolution 32**

Senate Resolution 32, introduced by Senators Zakas, Broden, and Mishler:

A SENATE RESOLUTION congratulating Mishawaka junior, Steven Sandefer on winning the IHSAA Individual 140-pound State Wrestling Title.

*Whereas, In a dominating performance, Mishawaka High School junior, Steven Sandefer, overcame his opponent to win the 140-pound title at the 70<sup>th</sup> Annual IHSAA Individual Wrestling State Finals at Conseco Fieldhouse in Indianapolis;*

*Whereas, The title win capped off a successful season that began with questions as to whether Steven would even be able to compete after suffering a knee injury during football season. Steven showed steadfast determination and refused to let the injury hinder his wrestling season; and*

*Whereas, Steven Sandefer is an example of how hard work and determination lead to success. He is a role model for young*

*athletes across Indiana. The citizens of this state recognize the value of competition and appreciate the hard work and dedication that it takes to be a champion: Therefore,*

*Be it resolved by the Senate of the  
General Assembly of the State of Indiana:*

SECTION 1. That the Indiana Senate congratulates Steven Sandefer on winning the IHSAA Individual 140-pound State Wrestling Title.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Mishawaka High School Superintendent, R. Steven Mills, Ed.S.; Principal, Dr. George Marzotto; Coach, Lance Beehler; and Steven Sandefer.

The resolution was read in full and adopted by voice vote.

## **ENGROSSED HOUSE BILLS ON SECOND READING**

### **Engrossed House Bill 1125**

Senator Kenley called up Engrossed House Bill 1125 for second reading. The bill was read a second time by title.

### **SENATE MOTION (Amendment 1125-1)**

Madam President: I move that Engrossed House Bill 1125 be amended to read as follows:

Page 2, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 2. IC 6-3-1-3.5, AS AMENDED BY P.L.144-2007, SECTION 3, AS AMENDED BY P.L.211-2007, SECTION 19, AND AS AMENDED BY P.L.223-2007, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.
- (3) Subtract one thousand dollars (\$1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).
- (4) Subtract one thousand dollars (\$1,000) for:
  - (A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;
  - (B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and
  - (C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins,

has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

(A) for taxable years beginning after December 31, 2004, one thousand five hundred dollars (\$1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code (as effective January 1, 2004); and

(B) five hundred dollars (\$500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

(A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or

(B) two thousand dollars (\$2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004, the amount determined under subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(20) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(21) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(22) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(23) *Subtract an amount equal to the amount of the taxpayer's qualified military income that was not excluded from the taxpayer's gross income for federal income tax purposes under Section 112 of the Internal Revenue Code.*

~~(23)~~ (24) Subtract income that is:

*(A) exempt from taxation under IC 6-3-2-21.7; and*  
*(B) included in the individual's federal adjusted gross income under the Internal Revenue Code.*

**(25) Subtract any amount of a credit (including an advance refund of the credit) that is provided to an individual under 26 U.S.C. 6428 (federal Economic Stimulus Act of 2008) and included in the individual's federal adjusted gross income.**

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.
- (3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.
- (4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.
- (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
- (6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.
- (7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).
- (8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.
- (9) Add to the extent required by IC 6-3-2-20 the amount of intangible expenses (as defined in IC 6-3-2-20) and any directly related intangible interest expenses (as defined in IC 6-3-2-20) for the taxable year that reduced the corporation's taxable income (as defined in Section 63 of the Internal Revenue Code) for federal income tax purposes.
- (10) Add an amount equal to any deduction for dividends

*paid (as defined in Section 561 of the Internal Revenue Code) to shareholders of a captive real estate investment trust (as defined in section 34.5 of this chapter).*

~~(10)~~ **(11) Subtract income that is:**

*(A) exempt from taxation under IC 6-3-2-21.7; and*  
*(B) included in the corporation's taxable income under the Internal Revenue Code.*

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.
- (3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.
- (4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.
- (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
- (6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.
- (7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).
- (8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.
- (9) Subtract income that is:
  - (A) exempt from taxation under IC 6-3-2-21.7; and*
  - (B) included in the insurance company's taxable income under the Internal Revenue Code.*

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.  
 (2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.  
 (3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) *Subtract income that is:*

(A) *exempt from taxation under IC 6-3-2-21.7; and*

(B) *included in the insurance company's taxable income under the Internal Revenue Code.*

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.  
 (2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section

168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(6) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(7) *Subtract income that is:*

(A) *exempt from taxation under IC 6-3-2-21.7; and*

(B) *included in the taxpayer's taxable income under the Internal Revenue Code.*

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars (\$2,500).

STEP FIVE: Determine the sum of the STEP FOUR amount and two thousand five hundred dollars (\$2,500)."

Page 30, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 20. [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] **IC 6-3-1-3.5, as amended by this act, applies to taxable years beginning after December 31, 2007.**"

Renumber all SECTIONS consecutively.

(Reference is to EHB 1125 as printed February 13, 2008.)

KENLEY

Motion prevailed.

SENATE MOTION  
 (Amendment 1125-4)

Madam President: I move that Engrossed House Bill 1125 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new

paragraph and insert:

"SECTION 1. IC 6-1.1-1-11, AS AMENDED BY P.L.214-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 11. (a) Subject to the limitation contained in subsection (b), "personal property" means:

- (1) nursery stock that has been severed from the ground;
- (2) florists' stock of growing crops which are ready for sale as pot plants on benches;
- (3) billboards and other advertising devices which are located on real property that is not owned by the owner of the devices;
- (4) ~~motor vehicles~~; mobile houses **and** airplanes; ~~boats not subject to the boat excise tax under IC 6-6-11; and trailers not subject to the trailer tax under IC 6-6-5;~~
- (5) foundations (other than foundations which support a building or structure) on which machinery or equipment is installed; and
- (6) all other tangible property (other than real property) which is being:
  - (A) held for sale in the ordinary course of a trade or business;
  - (B) held, used, or consumed in connection with the production of income; or
  - (C) held as an investment.

(b) Personal property does not include the following:

- (1) Commercially planted and growing crops while they are in the ground.
- (2) Computer application software that is not held as inventory (as defined in IC 6-1.1-3-11)."

Page 2, between lines 3 and 4, begin a new line block indented and insert:

**"(7) Truck bodies (including truck campers), all-terrain vehicles (ATVs), motorhomes, fifth wheel trailers, travel trailers, trailers, snowmobiles, rowboats, canoes, and other nonmotorized boats (other than sail boats).**

SECTION 3. IC 6-1.1-2-7.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 7.1. Except as otherwise provided, the bureau of motor vehicles shall adopt rules establishing an excise tax rate for the items listed in section 7(7) of this chapter.**

SECTION 4. IC 6-3-1-3.5, AS AMENDED BY P.L.144-2007, SECTION 3, AS AMENDED BY P.L.211-2007, SECTION 19, AND AS AMENDED BY P.L.223-2007, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United

States.

(3) Subtract one thousand dollars (\$1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).

(4) Subtract one thousand dollars (\$1,000) for:

- (A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;
- (B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and
- (C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

- (A) for taxable years beginning after December 31, 2004, one thousand five hundred dollars (\$1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code (as effective January 1, 2004); and
- (B) five hundred dollars (\$500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

- (A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or
- (B) two thousand dollars (\$2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the



taxable year began before January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004, the amount determined under subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(20) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(21) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code

in a total amount exceeding twenty-five thousand dollars (\$25,000).

(22) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

*(23) Subtract an amount equal to the amount of the taxpayer's qualified military income that was not excluded from the taxpayer's gross income for federal income tax purposes under Section 112 of the Internal Revenue Code.*

~~(23)~~ (24) Subtract income that is:

(A) exempt from taxation under IC 6-3-2-21.7; and

(B) included in the individual's federal adjusted gross income under the Internal Revenue Code.

**(25) Subtract any amount of a credit (including an advance refund of the credit) that is provided to an individual under 26 U.S.C. 6428 (federal Economic Stimulus Act of 2008) and included in the individual's federal adjusted gross income.**

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) Add to the extent required by IC 6-3-2-20 the amount of intangible expenses (as defined in IC 6-3-2-20) and any directly related intangible interest expenses (as defined in IC 6-3-2-20) for the taxable year that reduced the corporation's taxable income (as defined in Section 63 of the Internal Revenue Code) for federal income tax purposes.

(10) *Add an amount equal to any deduction for dividends paid (as defined in Section 561 of the Internal Revenue Code) to shareholders of a captive real estate investment trust (as defined in section 34.5 of this chapter).*

~~(11)~~ (11) *Subtract income that is:*

*(A) exempt from taxation under IC 6-3-2-21.7; and*

*(B) included in the corporation's taxable income under the Internal Revenue Code.*

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) *Subtract income that is:*

*(A) exempt from taxation under IC 6-3-2-21.7; and*

*(B) included in the insurance company's taxable income under the Internal Revenue Code.*

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) *Subtract income that is:*

*(A) exempt from taxation under IC 6-3-2-21.7; and*

*(B) included in the insurance company's taxable income under the Internal Revenue Code.*

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(6) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(7) *Subtract income that is:*

(A) *exempt from taxation under IC 6-3-2-21.7; and*

(B) *included in the taxpayer's taxable income under the Internal Revenue Code.*

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars (\$2,500).

STEP FIVE: Determine the sum of the STEP FOUR amount and two thousand five hundred dollars (\$2,500)."

Page 29, delete lines 37 through 42.

Page 30, delete lines 1 through 4.

Page 30, line 5, delete "(c)" and insert "(b)".

Page 30, between lines 8 and 9, begin a new paragraph and

insert:

"SECTION 22. [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] **IC 6-3-1-3.5, as amended by this act, applies to taxable years beginning after December 31, 2007.**".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1125 as reprinted February 13, 2008.)

KENLEY

Upon request of Senator R. Young the President ordered the roll of the Senate to be called. Roll Call 232: yeas 26, nays 20.

Motion prevailed.

#### SENATE MOTION

(Amendment 1125-3)

Madam President: I move that Engrossed House Bill 1125 be amended to read as follows:

Page 2, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 2. IC 6-2.5-5-41, AS AMENDED BY P.L.235-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 41. (a) As used in this section, "qualified media production" has the meaning set forth in IC 6-3.1-32-5.

(b) Except as provided in ~~subsections~~ **subsection (d), and (c);** a transaction involving tangible personal property is exempt from the state gross retail tax if the person acquiring the property acquires it for the person's direct use in a qualified media production in Indiana after December 31, 2006.

(c) For purposes of this section, the following are not considered to be directly used in the production of a qualified media production:

(1) Food and beverage services.

(2) A vehicle or other means of transportation used to transport actors, performers, crew members, or any other individual involved in a qualified media production.

(3) Fuel, parts, supplies, or other consumables used in a vehicle or other means of transportation used to transport actors, performers, crew members, or any other individual involved in a qualified media production.

(4) Lodging.

(5) Packaging materials.

(d) A person is not entitled to an exemption under this section with respect to a transaction involving tangible personal property that is:

(1) a qualified production expenditure (as defined in IC 6-3.1-32-6) for which a tax credit is claimed under IC 6-3.1-32; or

(2) acquired for direct use in a qualified media production in Indiana if the transaction occurs after December 31, ~~2008~~ **2011**".

Page 2, between lines 37 and 38, begin a new paragraph and insert:

"SECTION 4. IC 6-3.1-32-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2008]: **Sec. 0.5. As used in this chapter, "affiliated group" means any combination of the following:**

(1) An affiliated group within the meaning provided in Section 1504 of the Internal Revenue Code (except that the ownership percentage in Section 1504(a)(2) of the Internal Revenue Code shall be determined using fifty percent (50%) instead of eighty percent (80%)) or a pass through entity if a member of the affiliated group is a shareholder, partner, or member of the pass through entity and the member of the affiliated group is entitled to at least fifty percent (50%) of the distributive income or loss of the pass through entity.

(2) Two (2) or more partnerships (as defined in IC 6-3-1-19), including limited liability companies and limited liability partnerships, that have the same degree of mutual ownership as an affiliated group described in subdivision (1), as determined under rules adopted by the department.

SECTION 5. IC 6-3.1-32-6, AS ADDED BY P.L.235-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) As used in this chapter, "qualified production expenditure" means any of the following expenses incurred in Indiana or expenditures in Indiana made in the direct production of a qualified media production in Indiana:

- (1) The payment of wages, salaries, and benefits to Indiana residents.
- (2) Acquisition costs for a story or scenario used in the qualified media production.
- (3) Acquisition costs for locations, sets, wardrobes, and accessories.
- (4) Expenditures for materials used to make sets, wardrobes, and accessories.
- (5) Expenditures for photography, sound synchronization, lighting, and related services.
- (6) Expenditures for editing and related services.
- (7) Facility and equipment rentals.
- ~~(8) Food and lodging.~~
- ~~(9)~~ (8) Legal services if purchased from an attorney licensed to practice law in Indiana.
- ~~(10)~~ Any other production expenditure for which taxes are assessed or imposed by the state.

(b) The term does not include expenditures for payments of wages, salaries, or benefits to an individual who is a director, a producer, a screenwriter, or an actor (excluding extras), unless the individual is a resident of Indiana.

SECTION 6. IC 6-3.1-32-8, AS ADDED BY P.L.235-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. As used in this chapter, "taxpayer" means an individual, **affiliated group**, or entity that has any state tax liability.

SECTION 7. IC 6-3.1-32-9, AS ADDED BY P.L.235-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. A qualified applicant that

- (1) incurs or makes qualified production expenditures; ~~of:~~
  - (A) at least one hundred thousand dollars (\$100,000); in the case of a qualified media production described in section 5(a)(1) of this chapter; or
  - (B) at least fifty thousand dollars (\$50,000); in the case of a qualified media production described in section 5(a)(2); 5(a)(3); 5(a)(4); or 5(a)(5) of this chapter; and

(2) satisfies the requirements of this chapter; is entitled to a ~~refundable~~ tax credit as provided in this chapter.

SECTION 8. IC 6-3.1-32-10, AS ADDED BY P.L.235-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. This section applies to a taxpayer that claims qualified production expenditures of less than ~~six two~~ million dollars (~~\$6,000,000~~) (**\$2,000,000**) in a taxable year for purposes of the tax credit under this chapter. **Subject to section 14 of this chapter**, the amount of the tax credit to which a taxpayer is entitled under this chapter equals the lesser of:

- (1) the product of:
  - ~~(1)~~ (A) fifteen percent (15%); multiplied by
  - ~~(2)~~ (B) the amount of the taxpayer's qualified production expenditures in the taxable year; or
- (2) **five thousand dollars (\$5,000).**

SECTION 9. IC 6-3.1-32-11, AS ADDED BY P.L.235-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. This section applies to a taxpayer that claims qualified production expenditures of at least ~~six two~~ million dollars (~~\$6,000,000~~) (**\$2,000,000**) in a taxable year for purposes of the tax credit under this chapter. **Subject to section 14 of this chapter**, if the corporation approves the granting of a tax credit to the taxpayer under section 13 of this chapter, the amount of the tax credit to which the taxpayer is entitled under this chapter equals the product of:

- (1) the percentage determined by the corporation under section 13 of this chapter; multiplied by
- (2) the amount of the taxpayer's qualified production expenditures in the taxable year.

SECTION 10. IC 6-3.1-32-14, AS ADDED BY P.L.235-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. ~~If~~ The amount of the tax credit provided under this chapter to a taxpayer in a taxable year ~~exceeds may not exceed~~ the taxpayer's state tax liability for that taxable year. ~~the A taxpayer is not entitled to a carryback, carryover, or refund of the excess. any unused credit."~~

Renumber all SECTIONS consecutively.

(Reference is to EHB 1125 as printed February 13, 2008.)

KENLEY

Upon request of Senator Errington the President ordered the roll of the Senate to be called. Roll Call 233: yeas 27, nays 18.

Motion prevailed. The bill was ordered engrossed.

## RESOLUTIONS ON FIRST READING

### House Concurrent Resolution 14

House Concurrent Resolution 14, sponsored by Senator Bray:

A CONCURRENT RESOLUTION urging the Indiana department of transportation to name Highway 67 from Martinsville to Mooresville the John R. Wooden Way.

*Whereas, One of the most beloved names associated with Indiana basketball is John Wooden;*

*Whereas, Coach Wooden's athletic achievements are well documented, but it is difficult to comprehend the full magnitude of his impact on the sport of basketball;*

*Whereas, Coach Wooden won ten NCAA men's basketball championships, won seven NCAA championships in seven consecutive years (1967, 1968, 1969, 1970, 1971, 1972, and 1973), and had 38 straight victories in NCAA tournament play between 1964 and 1974;*

*Whereas, Coach Wooden also made 16 appearances in the Final Four, nine of which were consecutive, and had 88 consecutive victories during the 1971, 1972, and 1973 seasons;*

*Whereas, Coach Wooden was inducted into the Basketball Hall of Fame as both a player (class of 1961) and a coach (class of 1973), the first person ever to be admitted in both categories;*

*Whereas, Born in Hall, Indiana, on October 14, 1910, Coach Wooden led Martinsville High School to the state championship finals for three consecutive years, winning the tournament in 1927;*

*Whereas, While attending Purdue University, Coach Wooden was a three-time All-American guard, was named All-Big Ten and All-Midwestern (1930-1932), and was a member of Purdue's 1932 national championship team;*

*Whereas, Coach Wooden graduated from Purdue in 1932 with a degree in English and later earned a master's degree at Indiana State Teacher's College, now Indiana State University;*

*Whereas, Coach Wooden remained at Indiana State University from 1946-1948, serving as athletic director and basketball coach;*

*Whereas, Throughout his career as a player and a coach, Coach Wooden stressed the importance of strength of character and loyalty, realizing that basketball was much more than a game and could inspire its participants to accomplish great things; and*

*Whereas, Although Coach Wooden's accomplishments are world renowned, he began his career here in Indiana; therefore, it is fitting that special recognition be given to this outstanding athlete and educator: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:*

SECTION 1. That the Indiana General Assembly recognizes the many accomplishments and contributions of John Wooden to basketball and Indiana by naming Highway 67 from Martinsville to Mooresville the John R. Wooden Way.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the commissioner of the Indiana department of transportation.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

### Engrossed House Bill 1162

Senator Lawson called up Engrossed House Bill 1162 for second reading. The bill was reread a second time by title.

#### SENATE MOTION (Amendment 1162-1)

Madam President: I move that Engrossed House Bill 1162 be amended to read as follows:

Page 2, between lines 15 and 16, begin a new paragraph and insert:

**"(b) The members of the council shall be selected so as to give representation to the various geographical areas of Indiana."**

Page 2, line 16, delete "(b)" and insert "(c)".

Page 2, line 18, delete "(c)" and insert "(d)".

(Reference is to EHB 1162 as printed February 15, 2008.)

LAWSON

Motion prevailed. The bill was ordered engrossed.

### Engrossed House Bill 1250

Senator Hershman called up Engrossed House Bill 1250 for second reading. The bill was read a second time by title.

#### SENATE MOTION (Amendment 1250-5)

Madam President: I move that Engrossed House Bill 1250 be amended to read as follows:

Page 4, delete lines 17 through 42, begin a new line block indented and insert:

**"(2) Forty percent (40%) shall be distributed to the commission to carry out its purposes, including making any distributions or payments to the Lafayette - West Lafayette Convention and Visitors Bureau, Inc.**

**(3) Ten percent (10%) shall be distributed to a community development corporation that serves a metropolitan area in the county that includes:**

**(A) a city having a population of more than fifty-five thousand (55,000) but less than fifty-nine thousand (59,000); and**

**(B) a city having a population of more than twenty-eight thousand seven hundred (28,700) but less than twenty-nine thousand (29,000);**

**for the community development corporation's use in tourism, recreation, and economic development activities.**

**(4) Ten percent (10%) shall be distributed to Historic Prophetstown to be used by Historic Prophetstown for carrying out its purposes.**

**(5) Ten percent (10%) shall be distributed to the Wabash River Enhancement Corporation to assist the Wabash River Enhancement Corporation in carrying out its purposes. Money distributed under this subdivision may not be used to pay any:**

(A) employee salaries; or

(B) other ongoing administrative or operating costs;  
of the Wabash River Enhancement Corporation."

Page 5, delete lines 1 through 9.

(Reference is to EHB 1250 as printed February 15, 2008.)

HERSHMAN

Motion prevailed.

SENATE MOTION  
(Amendment 1250-2)

Madam President: I move that Engrossed House Bill 1250 be amended to read as follows:

Page 8, delete lines 30 through 42.

Delete pages 9 through 12.

Page 13, delete lines 1 through 4.

(Reference is to EHB 1250 as printed February 15, 2008.)

NUGENT

Motion prevailed.

SENATE MOTION  
(Amendment 1250-4)

Madam President: I move that Engrossed House Bill 1250 be amended to read as follows:

Page 6, line 15, delete "Angola" and insert "**Steuben County**".

Page 6, line 16, delete "the city of Angola" and insert "**Steuben County**".

Page 6, line 19, delete "city" and insert "**county**".

Page 6, line 20, delete "municipal" and insert "**county**".

Page 6, line 26, delete "municipal" and insert "**county**".

Page 6, line 34, delete "city" and insert "**county**".

Page 7, line 11, delete "municipal" and insert "**county**".

Page 7, line 15, delete "municipal" and insert "**county**".

Page 7, line 30, delete "city" and insert "**county**".

Page 7, line 31, after "state." insert "**The county auditor shall, at least monthly, make a distribution of fifty percent (50%) of the amount received from the treasurer of state in the immediately preceding thirty (30) days to the city of Angola. The remainder of the distribution shall be retained for use by the county.**".

Page 7, line 33, delete "city" and insert "**county**".

Page 7, line 33, after "officer of" delete "the" and insert "**a political subdivision receiving a distribution under this chapter**".

Page 7, line 34, delete "city".

Page 7, line 35, delete "the city" and insert "**a political subdivision receiving a distribution under this chapter**".

Page 7, line 40, delete "the" and insert "**a political subdivision receiving a distribution under this chapter**".

Page 7, line 41, delete "city".

Page 8, line 14, delete "the city" and insert "**a political subdivision receiving a distribution under this chapter**".

Page 8, line 14, after "in the" insert "**political subdivision's**".

Page 8, line 16, delete "city" and insert "**political subdivision**".

Page 8, line 26, after "that" insert "**Steuben County and**".

Page 8, line 26, delete "faces" and insert "**face**".

Page 8, line 27, delete "its" and insert "**their**".

(Reference is to EHB 1250 as printed February 15, 2008.)

MEEKS

Motion prevailed. The bill was ordered engrossed.

### Engrossed House Bill 1359

Senator Paul called up Engrossed House Bill 1359 for second reading. The bill was read a second time by title.

SENATE MOTION  
(Amendment 1359-1)

Madam President: I move that Engrossed House Bill 1359 be amended to read as follows:

Page 1, line 2, after "SECTION 9," insert "AS AMENDED BY SEA 156-2008, SECTION 1,".

Page 2, line 10, after "IC 16-19-3-5" insert "or IC 16-41-2-1".

Page 22, line 23, delete "database" and insert "**data base**".

Page 23, line 12, delete "database" and insert "**data base**".

Page 78, line 27, delete "director, at the director's discretion, may, for the" and insert "**director may keep a final order confidential if the director determines that the immediate release of the order would endanger:**

(1) the stability of the financial institution; or

(2) the security of depositors' funds.

**However, after two (2) years after the date of its issuance, a final order is no longer confidential under IC 28-1-2-30."**

Page 78, delete lines 28 through 30.

Page 81, line 17, after "company;" insert "**or**".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1359 as printed February 19, 2008.)

PAUL

Motion prevailed.

SENATE MOTION  
(Amendment 1359-2)

Madam President: I move that Engrossed House Bill 1359 be amended to read as follows:

Page 1, line 2, after "SECTION 9," insert "AS AMENDED BY SEA 156-2008, SECTION 1,".

Page 2, line 10, after "IC 16-19-3-5" insert "or IC 16-41-2-1".

Page 5, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 2. IC 5-10.3-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) The custodians must be banks or trust companies that are domiciled in the United States and approved by the ~~Indiana department of financial institutions under IC 28-1-2-39~~ board to:

(1) act in a fiduciary capacity; and

(2) manage custodial accounts;

~~in Indiana: on behalf of the fund.~~

(b) The board is authorized to accept safekeeping receipts for securities held by the custodians. Each custodian must have a combined capital and surplus of at least ten million dollars (\$10,000,000) according to the last published report of condition for the bank or trust company and have physical custody of such

securities. The state board of accounts is authorized to rely on safekeeping receipts from the custodian. The custodian may be authorized by the agreement to:

- (1) hold securities and other investments in the name of the fund, in the name of a nominee of the custodian, or in bearer form;
- (2) collect and receive income, interest, proceeds of sale, maturities, redemptions, and all other receipts from the securities and other investments;
- (3) deposit all the receipts collected and received under subdivision (2) in a custodian account or checking account as instructed by the board;
- (4) reinvest the receipts collected and received under subdivision (2) as directed by the board;
- (5) maintain accounting records and prepare reports which are required by the board and the state board of accounts; and
- (6) perform other services for the board as are customary and appropriate for custodians.

(c) The custodian is responsible for all securities held in the name of its nominee for the fund.

SECTION 3. IC 5-10.4-3-13, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) The board may enter into a custodial agreement on terms the board considers in the best interest of the fund with a bank or trust company that is domiciled in the United States and approved by the ~~Indiana~~ department of financial institutions under ~~IC 28-1-2-39~~ board to:

- (1) act in a fiduciary capacity; and
- (2) manage custodial accounts;

~~in Indiana~~ on behalf of the fund.

(b) The agreement described in subsection (a) may authorize the custodian to:

- (1) hold the fund's securities and other investments in the name of the fund or a nominee, or in bearer form;
- (2) collect the income and other receipts from the securities and other investments and deposit them subject to the instructions of the board or the board's representative;
- (3) reinvest the receipts on the direction of the board or the board's representative;
- (4) maintain accounting records and prepare reports as may be required for use by the fund and the state board of accounts; and
- (5) perform other services for the board that are appropriate and customary for the custodian.

(c) The custodian is responsible for all securities held in the name of its nominee for the fund."

Page 22, line 23, delete "database" and insert "**data base**".

Page 23, line 12, delete "database" and insert "**data base**".

Page 81, line 17, after "company;" insert "**or**".

Page 85, line 9, before "IC 28-8-4-22;" insert "IC 28-1-2-39;".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1359 as printed February 19, 2008.)

PAUL

Motion prevailed. The bill was ordered engrossed.

## Engrossed House Bill 1379

Senator Charbonneau called up Engrossed House Bill 1379 for second reading. The bill was read a second time by title.

### SENATE MOTION (Amendment 1379-1)

Madam President: I move that Engrossed House Bill 1379 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 27-1-12-44 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 44. (a) This section applies to a life insurance policy that is issued after June 30, 2008.**

**(b) Notwithstanding any other law, an insurer shall not, after a life insurance policy has been in force for two (2) years after the life insurance policy's date of issue, allege that the life insurance policy was issued in connection with stranger originated life insurance (as defined in IC 27-8-19.8-7.8) as a basis to deny payment of the proceeds of the life insurance policy."**

Renumber all SECTIONS consecutively.

(Reference is to EHB 1379 as printed February 19, 2008.)

STEELE

Motion prevailed. The bill was ordered engrossed.

## ENGROSSED HOUSE BILLS ON THIRD READING

### Engrossed House Bill 1016

Senator Tallian called up Engrossed House Bill 1016 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning property.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 234: yeas 46, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

### Engrossed House Bill 1036

Senator Steele called up Engrossed House Bill 1036 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 235: yeas 46, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

**RESOLUTIONS ON FIRST READING****House Concurrent Resolution 12**

House Concurrent Resolution 12, sponsored by Senator Steele:

A CONCURRENT RESOLUTION urging the Indiana department of transportation to name the section of U.S. Highway 50 from U.S. Highway 31 in Jackson County to County Road 700 West in Jennings County the Governor Edgar D. Whitcomb Highway.

*Whereas, Governor Edgar Whitcomb is a great Hoosier and a great American;*

*Whereas, Governor Whitcomb was born in Hayden in Jennings County on November 6, 1917;*

*Whereas, Governor Whitcomb attended Indiana University until the outbreak of World War II;*

*Whereas, During World War II, Governor Whitcomb served heroically in the Philippines;*

*Whereas, Governor Whitcomb was stationed at Clark Field in the Philippines when it was attacked just days after the strike on Pearl Harbor and was part of the defense of the Philippines and until the fall of Bataan;*

*Whereas, Taken captive by the Japanese, Governor Whitcomb endured brutal treatment, threats of death, and confinement in a cramped cell;*

*Whereas, Finally freed in a prisoner exchange, Governor Whitcomb eventually returned to the Philippines serving as an aerial navigator;*

*Whereas, Governor Whitcomb wrote about his war experiences in books entitled *Escape from Corregidor* and *On Celestial Wings*;*

*Whereas, After the war was over, Governor Whitcomb returned to Indiana University and completed his law degree and practiced law in North Vernon, Seymour, and Indianapolis for 14 years;*

*Whereas, It was during this time that Governor Whitcomb began to develop a political base and first ran for public office;*

*Whereas, In 1966, Whitcomb was elected Secretary of State; in 1968, he was elected governor;*

*Whereas, Governor Whitcomb was inaugurated as the 43rd governor of Indiana on January 13, 1969, and served for four years;*

*Whereas, After leaving office, Governor Whitcomb served as director of the Mid American World Trade Association and resumed his law practice in Indianapolis;*

*Whereas, After retirement, Governor Whitcomb returned to southern Indiana; and*

*Whereas, Governor Whitcomb served his state and his country in time of war and peace; and he is a dedicated Hoosier whose contributions to our state and nation will be felt for generations to come: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:*

SECTION 1. That the Indiana General Assembly recognizes and honors the accomplishments of Governor Edgar Whitcomb by urging the Indiana department of transportation to name the section of U.S. Highway 50 from U.S. Highway 31 in Jackson County to County Road 700 West in Jennings County the Governor Edgar D. Whitcomb Highway.

SECTION 2. That the Principal Clerk of the House of Representatives transmits copies of this resolution to the commissioner of the Indiana department of transportation.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

## **ENGROSSED HOUSE BILLS ON THIRD READING**

**Engrossed House Bill 1105**

Senator Bray called up Engrossed House Bill 1105 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 236: yeas 43, nays 3. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

**Engrossed House Bill 1197**

Senator Hershman called up Engrossed House Bill 1197 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 237: yeas 46, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.



**MESSAGE FROM THE GOVERNOR**

Madam President and Members of the Senate: On February 20, 2008, I signed the following enrolled act into law SEA 45.

MITCHELL E. DANIELS, JR.  
Governor

**MESSAGE FROM THE PRESIDENT  
OF THE SENATE**

Members of the Senate: I have on the 19th day of February, 2008, signed Senate Enrolled Acts: 33, 41, 45, 88, 156, and 210.

REBECCA S. SKILLMAN  
Lieutenant Governor

**MESSAGE FROM THE PRESIDENT PRO TEMPORE  
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on February 21, 2008, signed Senate Enrolled Acts: 26, 46, 250, and 305.

DAVID C. LONG  
President Pro Tempore

**MESSAGE FROM THE HOUSE**

Madam President: I am directed by the House to inform the Senate that the House has passed House Concurrent Resolutions 19 and 35 and the same are herewith transmitted for further action.

CLINTON MCKAY  
Principal Clerk of the House

**MESSAGE FROM THE PRESIDENT PRO TEMPORE  
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on February 21, 2008, signed House Enrolled Acts: 1046, 1077, and 1275.

DAVID C. LONG  
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE  
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on February 20, 2008, signed Senate Enrolled Act 233.

DAVID C. LONG  
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE  
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on February 20, 2008, signed Senate Enrolled Acts: 133 and 219.

DAVID C. LONG  
President Pro Tempore

**SENATE MOTION**

Madam President: I move that Senator Zakas be added as cosponsor of Engrossed House Bill 1060.

GARD

Motion prevailed.

**MOTIONS TO DISSENT  
FROM HOUSE AMENDMENTS**

**SENATE MOTION**

Madam President: I move that the Senate dissent to the House Amendments to Engrossed Senate Bill 91 and that a conference committee be appointed to confer with a like committee of the House.

DELPH

Motion prevailed.

**SENATE MOTION**

Madam President: I move that Senator Rogers be added as cosponsor of Engrossed House Bill 1220.

CHARBONNEAU

Motion prevailed.

**SENATE MOTION**

Madam President: I move that Senators Broden and Hershman be added as cosponsors of House Concurrent Resolution 14.

BRAY

Motion prevailed.

**SENATE MOTION**

Madam President: I move that Senator Simpson be added as second sponsor of Engrossed House Bill 1125.

KENLEY

Motion prevailed.

**SENATE MOTION**

Madam President: I move that Senator Deig be added as cosponsor of Engrossed House Bill 1196.

LANDSKE

Motion prevailed.

**SENATE MOTION**

Madam President: I move that Senators Lawson and Broden be added as cosponsors of Engrossed House Bill 1196.

LANDSKE

Motion prevailed.

**SENATE MOTION**

Madam President: I move that Senators Merritt and Breaux be

added as coauthors of Senate Resolution 23.

HERSHMAN

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Smith be added as coauthor of Engrossed Senate Bill 197.

KRUSE

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Drozda and Arnold be added as cosponsors of Engrossed House Bill 1276.

PAUL

Motion prevailed.

**MOTIONS TO DISSENT  
FROM HOUSE AMENDMENTS**

SENATE MOTION

Madam President: I move that the Senate dissent to the House Amendments to Engrossed Senate Bill 31 and that a conference committee be appointed to confer with a like committee of the House.

ZAKAS

Motion prevailed.

SENATE MOTION

Madam President: I move we adjourn until 1:30 p.m., Monday, February 25, 2008.

LONG

Motion prevailed.

The Senate adjourned at 3:23 p.m.

MARY C. MENDEL  
Secretary of the Senate

REBECCA S. SKILLMAN  
President of the Senate